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POLITICAL SCIENCE QUARTERLY

THE JOURNAL OF PUBLIC AND INTERNATIONAL AFFAIRS

Paul T. McCartney — American Nationalism and U.S. Foreign Policy from September 11 to the Iraq War

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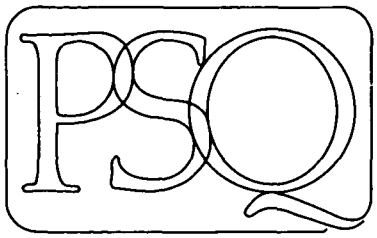

POLITICAL SCIENCE QUARTERLY

THE JOURNAL OF PUBLIC AND INTERNATIONAL AFFAIRS

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From the Editor:

In this issue . . .

PAUL T. McCARTNEY examines how the Bush administration drew upon nationalist imagery first to interpret the terrorists attacks of 11 September 2001 and then to frame the war against Iraq. He demonstrates how President Bush drew on both enduring elements of American identity and security concerns following September 11 to provide normative justification for the Iraq invasion. He concludes that the exceptionalist dimension of American nationalism that underpins the Bush doctrine is outdated and dangerous to current foreign policy interests.

YONGSHUN CAI examines how citizen resistance is possible and how it is managed in China. He concludes that while the Chinese political system is flexible and provides space for citizen resistance, such resistance is confined within the boundary established by the state.

GUY STUART analyzes the use of the felons' exclusion list in the 2000 presidential elections in Florida. He finds that the state produced a list that contained racially biased errors, and that county supervisors across the state did not use the list uniformly. Instead, party politics intervened: any partisan advantage Republicans gained from the use of the list was offset by Democratic supervisors' refusal to use a flawed list.

DANIEL W. DREZNER assesses the current state of global Internet governance. He challenges the common assumption that the Internet leads to a decline in state autonomy relative to other global actors. Drezner argues that the great powers remain the primary actors shaping the governance structure and regulatory standards of the Internet.

PETER H. ARGERSINGER examines the ways in which many of the controversial features of the presidential election of 2000 had precedents in the late nineteenth century. Focusing on Michigan's law for the district election of presidential electors, he shows the persistent partisanship that controls electoral rules and still prevents serious electoral reform.

DEMETRIOS JAMES CARALEY

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American Nationalism and U.S. Foreign Policy from September 11 to the Iraq War

PAUL T. McCARTNEY

> The deliberate and deadly attacks which were carried out yesterday against our country were more than acts of terror. They were acts of war. This will require our country to unite in steadfast determination and resolve. Freedom and democracy are under attack. . . . This enemy attacked not just our people, but freedom-loving people everywhere in the world. . . . This will be a monumental struggle of good versus evil. But good will prevail.
>
> —President George W. Bush, 12 September 2001[1]

More than three years have passed since the terrorists of al Qaeda brutally attacked the United States and spurred the country into a new era in its history. When the World Trade Center collapsed into a dusty heap while the nerve center of American military might burned with a passenger jet lodged in its side, a generation of Americans who had not yet been born when President John F. Kennedy was assassinated sadly acquired its own tragic defining moment. Yet, America's preoccupation shifted quickly but divisively toward Iraq, and the surreal intensity of September 11 and its aftermath seems to belong to a different time. While it still remains possible to recall how Americans actually experienced that tragic day, it would be useful to evaluate how Americans came to grips with the terrorist attacks, how their attention was directed seamlessly

[1] George W. Bush, "Remarks by the President," 12 September 2001, accessed on the White House website at http://www.whitehouse.gov/news/releases/2001/09/20010912-4.html, 2 October 2001.

PAUL T. McCARTNEY is a visiting professor at the University of Richmond. His book, *Power and Progress: American National Identity and the Spanish-American War*, will be published in Spring 2005. This article is part of broader book project examining the connection between American nationalism and U.S. foreign policy.

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to war with Iraq, and how September 11 has more broadly shaped subsequent U.S. policy making. In this paper, I consider the lessons that this dramatic episode holds for helping us to understand the connection between U.S. foreign policy and American nationalism.

More specifically, I argue that enduring nationalist themes provided the basic structure in which Americans organized their comprehension of and reaction to the terrorist attacks. In addition, by employing the legitimating power of nationalism to furnish the "official" interpretation of September 11, President George W. Bush was able to provide a context in which Americans could understand and accept a set of foreign policy goals far broader and more ambitious than a simple response to the immediate attacks would have suggested. The only way to ensure that such atrocities never happen again, Bush decided for the United States, was to change the global context that had made them possible. Changing the world in this way—to suit American interests by making it more consistent with American values—has always been an implicit component of American nationalism. Thus, the terrorist strikes provided a rare clarifying moment in the nation's collective consciousness, when both American national identity and U.S. foreign policy were reinvigorated—separately and in relation to each other—and a national focus and sense of mission, absent since the end of the Cold War, reemerged. Bush's call for a worldwide war against the perpetrators and his relentless characterization of them as evil laid the groundwork in the American consciousness (if not the world's) for his militaristic designs against Saddam Hussein's regime, a policy that was clearly central to his breathtakingly ambitious vision for America's role in the world as described in the administration's formal foreign policy statement, the National Security Strategy.

Both the blending of national identity with U.S. foreign policy in Bush's rhetoric and his manner of enunciating U.S. foreign policy goals in lofty and frequently moralistic terms were consistent with established tradition. Reliably but uneasily, the United States has always maintained both a sweeping identification with the whole of humanity and an insular preoccupation with its own lofty distinctiveness, and it has used this paradoxical combination as the basis for claiming its righteous entitlement to lead the world. National identity and foreign policy are intimately connected in the United States because the former rejects (formally, at least) ethnic or other ascriptive bases of national identity and relies instead on an ideological construction of the nation that insists on the global relevance of the American project. (Many scholars have made a strong case that it is misleading to characterize American national identity in terms of its ideology because of the pervasively ascriptive bases of its laws, politics, and culture. I do not disagree with this position, but argue that racial, ethnic, and other ascriptive characteristics have been interpolated into the American ideology in ways that have left its principles sufficiently intact to evolve along with American culture. In other words, at any given moment, American political principles are expressive of their cultural context, which gives particular form to the ideology's otherwise abstract content. More to the point, the ascrip-

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tive dimensions of American national identity have been less relevant to the dynamic that I am describing.)[2] The American style of foreign policy reflects an ideological and cultural interpretation of both the nation and its place in the world, one that posits that the United States enjoys universal significance because it is an archetype of virtue and the locomotive of human progress. This American penchant for ascribing transcendent value to itself and for defining itself as exceptional reflects the influence of intellectual and religious tendencies that flourished under historical circumstances that almost seemed tailored to nurture them and that gained strength as the state became more powerful.[3] It has yielded two conflicting impulses—exemplarism, or the desire to stand apart from the world and serve merely as a model of social and political possibility, and vindicationism, the urge to change the world to make it look and act more like the United States.[4] Bush's foreign policy is vindicationism with a vengeance.

This paper's argument is presented in three sections. In the first, I review the nature and sources of the missionary dimension of American national identity and examine, in particular, its relation to American foreign policy. Second, I analyze President Bush's framing of the terrorist attacks and show how he worked rhetorically toward a clear enunciation of the Bush doctrine. My deconstruction of his speeches will emphasize his insistence on American virtue, values, and power; and it will draw special attention to the civil–religious dimension of his rhetoric—an aspect of American identity that is mistakenly ignored in most foreign policy analyses.[5] Third, I locate the tendencies of subsequent foreign policy emphases within the framework of the Bush doctrine, paying specific attention to the war against Iraq. Finally, I argue that while American universalism remains an appropriate element of American national identity, it can no longer be usefully interconnected with a notion of American exceptionalism that sharply distinguishes Americans from the rest of the world. If the

[2] For the best presentation of this argument, see Rogers Smith, *Civic Ideals: Conflicting Visions of Citizenship in US History* (New Haven, CT: Yale University Press, 1997). On the relationship between race and U.S. foreign policy, see Thomas Ambrosio, *Ethnic Identity Groups and U.S. Foreign Policy* (Westport, CT: Praeger, 2002); Gerald Horne, "Race from Power: U.S. Foreign Power and the General Crisis of 'White Supremacy'" in Michael J. Hogan, ed., *The Ambiguous Legacy: U.S. Foreign Relations in the "American Century"* (New York: Cambridge University Press, 1999), 302–336; and Michael Hunt, *Ideology and U.S. Foreign Policy* (New Haven, CT: Yale University Press, 1987).

[3] Arthur M. Schlesinger, Jr. "America: Experiment or Destiny," *The American Historical Review* 82 (June 1977): 505–522.

[4] This distinction between exemplarism and vindicationism is discussed more fully in works such as Henry Kissinger, *Diplomacy* (New York: Simon and Schuster, 1994), 17–56; H.W. Brands, *What America Owes the World: The Struggle for the Soul of Foreign Policy* (New York: Cambridge University Press, 1998); William W. Cobb, Jr., *The American Foundation Myth in Vietnam: Reigning Paradigms and Raining Bombs* (New York: University Press of America, 1998); Elliot Abrams, ed., *The Influence of Faith: Religious Groups and U.S. Foreign Policy* (Lanham, MD: Rowman & Littlefield, 2001), 1–33; and Edward McNall Burns, *The American Idea of Mission: Concepts of National Destiny and Purpose* (New Brunswick, NJ: Rutgers University Press, 1957).

[5] But see Abrams, *The Influence of Faith.*

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broad contours of American national identity cannot be expected easily to change, then its more cosmopolitan elements should receive renewed emphasis in a manner better suited to the country's global stature. Unfortunately, the current administration has done precisely the opposite by stressing the particularities of the American experience and asserting rather than demonstrating the virtue of the American national project. Essentially, the United States relies today simply on superior military power to ground its claims to moral excellence. This is, both morally and politically, treacherous ground on which to stand at a time when the world demands American leadership.

American Nationalism and U.S. Foreign Policy: Exceptionalism and Universalism

Uniquely among the great powers, both the United States and the collective identity of its people were consciously *created*, and with a sense of purpose.[6] During their War of Independence, Americans manifested the conviction that their nationalist revolt against Great Britain was a truly revolutionary episode and that their goal was not only to attain justice for themselves, but also to usher in a new, democratic era in human history.[7] Thomas Paine (though not an American himself) declared for instance, "We have it in our power to begin the world over again,"[8] indicating how, from the very beginning, Americans have believed that their polity represents a new development in human history, a particularistic community of universal significance.[9]

Put another way, American national identity has been premised upon the belief that the nation's binding principles are rooted in qualities and capacities shared by all people, everywhere.[10] On the world stage, though, the United States cannot help but act as a single, discrete entity, however universal its pretensions. It is but one state among many. As a result, U.S. foreign policy frequently tries to have it both ways—to assume that America's national interest and the greater good of mankind are one and the same. This approach has resulted in a self-referential understanding of the norms that are to govern the world. It has also encouraged the hope that someday the world will indeed be universally guided by American principles, even as the United States, as the figurehead and governor of the new order, maintains its right to particularistic

[6] Brian Klunk, *Consensus and the American Mission* (Lanham, MD: University Press of America, 1986); William Pfaff, *The Wrath of Nations: Civilization and the Furies of Nationalism* (New York: Simon and Schuster, 1993).

[7] Lawrence J. Friedman, *Inventors of the Promised Land* (New York: Alfred A. Knopf, 1975).

[8] Thomas Paine, "Common Sense" in Nelson F. Adkins, ed., *Common Sense and Other Writings* (New York: Macmillan, 1953). See also, Walter A. McDougall, *Promised Land, Crusader State: America's Encounter with the World Since 1776* (New York: Houghton Mifflin, 1997).

[9] James H. Moorhead, "The American Israel: Protestant Tribalism and Universal Mission" in William R. Hutchison and Hartmut Lehman, eds., *Many Are Chosen: Divine Elections and Western Nationalism* (Minneapolis, MN: Fortress Press, 1994), 145–166.

[10] Hans Kohn, *American Nationalism: An Interpretive Essay* (New York: Macmillan, 1957).

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loyalty. Needless to say, this "solution" to the tension between national discreteness and universalist pretension has been regarded by others as crudely arrogant, a fact that Americans have been slow to recognize.

Embedded in Americans' belief in their nation's universal significance is a sense of mission, which sometimes emerges as a crusading mentality. This sense of destiny also reflects American exceptionalism, the conviction that the United States is qualitatively different from—and better than—other states. The objective basis for considering the nation to be exceptional is its ideological nature, "the creed of our political faith," as Thomas Jefferson put it.[11] In the words of Seymour Martin Lipset:

> Becoming American [is] a religious, that is, ideological act. . . . The United States is a country organized around an ideology which includes a set of dogmas about the nature of a good society. Americanism . . . is an "ism" or ideology in the same way that communism or fascism or liberalism are isms. . . . In Europe, nationality is related to community, and thus one cannot become un-English or un-Swedish. Being an American, however, is an ideological commitment. It is not a matter of birth. Those who reject American values are un-American.[12]

The belief that the United States is an exceptional nation defined by a creed is inherently normative. As Daniel Bell argued, exceptionalism means more than simply being "different" from others; every society, indeed every individual, is unique in some way, and there is no great pride to be gotten from that fact.[13] Exceptionalism, therefore, connotes an element of superiority, an intangible but clearly recognizable quality that we can identify in geniuses and other people of extraordinary talent on the individual level, for example, and that is rooted in what is sometimes referred to as the "genius" of America's political organization at the collective level. American exceptionalists note that the United States somehow managed to solve the previously intractable challenge of establishing a political regime that is both stable and free, thus demonstrating its possession of some special quality that other states lacked. In turn, this ennobling discovery entitled Americans to lead other nations so that they might thereby enjoy some of the exemplar's success; even more, it has generally been understood to carry for Americans a *duty*, a peculiar responsibility to lead others and share its self-evidently desirable liberty.[14]

[11] Thomas Jefferson, "First Inaugural Address" in Davis Newton Lott, ed., *The Presidents Speak: The Inaugural Addresses of the American Presidents, from Washington to Clinton* (New York: Henry Holt, 1994).

[12] Seymour Martin Lipset, *American Exceptionalism: A Double-Edged Sword* (New York: W.W. Norton, 1996), 18, 31.

[13] Daniel Bell, "The 'Hegelian Secret': Civil Society and American Exceptionalism" in Byron E. Shafer, ed., *Is America Different? A New Look at American Exceptionalism* (Oxford: Clarendon Press, 1991), 46–70.

[14] For potent criticisms of the idea of American exceptionalism, see J. Victor Koschmann, "Review Essay: The Nationalism of Cultural Uniqueness," *American Historical Review* 102 (June 1997): 758–768; Ian Tyrrell, "American Exceptionalism in an Age of International History," *American Historical Review* 96 (October 1991): 1031–1055; and Reinhold Niebhur, *The Irony of American History* (New York: Charles Scribner's Sons, 1954).

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The normative dimension of American national identity builds from two disparate sources. The first, American civil religion, is the religious expression of American nationalism; it imparts to Americans the conviction that their enterprise is of truly transcendent value. The second is the Enlightenment, which not only provided the liberal theory that gave form to the American political system, but also supplied a crucial component of America's global teleological ambition. Each tradition merits brief comment.

America's civil religion allows Americans to express their patriotic sentiments in religious language and vice-versa by imagining that a fundamental consistency exists between their political preferences and the theological imperatives of their faith.[15] Despite the claim that some have made that "it is somewhat misleading . . . to refer to the civil or national religion as a 'common denominator' faith," American civil religion in both style and substance bears the strong imprint of America's religious mainstream.[16] Historically, this has meant that its rhetorical and substantive content has been deeply structured by Protestant beliefs: despite its ecumenism, American civil religion rejoices in the favor of Providence, not Allah or Buddha.

America's civil religion provides a way for the nation to interpret its collective, signature experiences according to the logic of ultimacy. In particular, it has often suggested a special role for the country in millennial history. For example, the two most significant events to give substance to America's civil religion were the Revolutionary War and the Civil War. Each conflict inculcated a strongly redemptive message, the first from the corruption of the Old World, the second from the collective sins of the United States itself.[17] Ernest Lee Tuveson, a religious historian, notes how each war, the second in particular, was regarded at the time as "more than just another war about a moral issue, even if a great one; it was *the* crisis of mankind, even if only one nation was involved."[18] That an internal war could be regarded in apocalyptic terms shows that in American civil religion, the nation-state itself is regarded as figuring prominently and directly in God's broader plan for the human race. Civil religion allows Americans to express in the language of transcendence that the United States is an exceptional country and that the American people have a providential destiny. A certain unshakable confidence attaches to foreign policies that are believed to be not only approved by God, but perhaps even required by His inscrutable plan for mankind; civil religion can subtly impart that

[15] Robert N. Bellah, "Civil Religion in America" in Russell E. Richey and Donald G. Jones, eds., *American Civil Religion* (New York: Harper & Row, 1974), 21–44. See also, Dante Germino, *The Inaugural Addresses of American Presidents: The Public Philosophy and Rhetoric*, with a preface and introduction by Kenneth W. Thompson (New York: University Press of America, 1984).

[16] Conrad Cherry, *God's New Israel: Religious Interpretations of American Destiny*, 2nd ed. (Chapel Hill: University of North Carolina Press, 1998), 11.

[17] See Cherry, *God's New Israel*, 11–12; and Bellah, "Civil Religion," 30–32.

[18] Ernest Lee Tuveson, *Redeemer Nation: The Idea of America's Millennial Role* (Chicago, IL: University of Chicago Press, 1968), 195–196.

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aura to American actions. One can understand neither the crusading moral spirit that imbues American nationalism nor the centrality of the sense of American mission to U.S. foreign policy without taking due account of American civil religion.

The Enlightenment (at least a watered-down version of it) was also embedded at the country's founding and came intensively to structure the national consciousness.[19] Its normative political vision encouraged widespread individual freedom in order that under the guidance of science, the human race could progress toward perfection. Although, on one level, the protection of humanity's natural liberty sought by Enlightenment political theorists was regarded as an end unto itself, the ultimate purpose of this freedom was progress. If people were free, then they could attain perfection, both individually and as a race. What this progress required was a break from the past, whose corrupt institutions were not amenable to the development of a scientific, forward-looking worldview. A fresh beginning was needed, with past practices discarded and replaced with a new world order founded on reason. National and religious loyalties were productive of little but superstition and bloodshed; they thus had to be abolished. This was the hope and vision of many Enlightenment thinkers: a new beginning in human history, when an individual's relations with both others and herself would be founded on a new set of principles and values that would enable her at last to become perfect, in conditions of freedom, equality, and justice. It should be pointed out that American Enlightenment thinkers tended to espouse less-robust visions of human perfectibility than their European, especially French, counterparts, and the movement's antireligious posture certainly gained no traction in the United States. Nevertheless, the general worldview of liberal optimism was held in common by American and European thinkers alike, particularly the commitment to progress in freedom.

Given these hopes, it is not difficult to see how Enlightenment thinkers placed special value first on North America, which they regarded as a continental *tabula rasa*, and later on the state that was born there. (Obviously, the slate was not in fact "clean," and the fact that the European settlers could regard it as such indicates the strength of both their racism and their willingness to bend their perception of social realities to make them conform to their idealistic vision. It is beyond the purview of this paper to address the significance of racial particularism in American national identity, but the reader should bear its importance in mind when considering the connection between American national identity and foreign policy, especially when the United States deals with the nonwhites who comprise most of the world's population.) Americans agreed with many Enlightenment precepts, particularly regarding government, and they eagerly subscribed to the Enlightenment's esteem for their mission. As Wilson

[19] For what remains the best account of the Enlightenment's importance to American political identity, see Louis Hartz, *The Liberal Tradition in America*, with a new Introduction by Tom Wicker (New York: Harcourt, Brace & Company, 1991).

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Carey McWilliams writes, "The new theories were flattering, appealing to the uncertain pride of America. For more than one theorist of the Enlightenment—Herder and Blake, among the still prominent—America was the redemptive land which had escaped European corruptions and recovered the liberty of nature. Free to experiment with the new social and moral teachings, America was 'the first lodge of humanity,' and from her example might arise the freedom and brotherhood of man."[20]

The United States represented in many respects the literal break from the past demanded by the Enlightenment vision, and its existence heartened those who anticipated impatiently humanity's new start. For these optimists on both sides of the Atlantic, the United States promised to be the instrumentality by which man's highest hopes could be realized. Because it lacked both a feudal tradition and an overarching religious establishment, it could quietly and without great convulsions institute a model form of democratic government and society.[21] America's geography and founding moment crystallized in the Enlightenment mind the recognition that this nation presented the ideal opportunity for putting into practice the values of the new era. In this way, the Enlightenment not only encouraged Americans to adopt a liberal form of government, it also contributed to the missionary dimension of their collective identity.

The Idea of American Mission and U.S. Foreign Policy

In practice, American nationalism influences U.S. foreign policy by layering altruism on top of basic, self-interested power-seeking behavior while allowing Americans to believe that their good intentions lack a selfish dimension and are truly, in some objective way, good for others. Americans seek to implant or strengthen democratic governance in other states not only to make other peoples "free" (and however culturally insensitive Americans may be in this desire, articulations of this goal are generally sincere), but also and primarily because doing so expands American power. As the divinely appointed vehicle for attaining lasting human progress, the United States is entitled to interpret for other states their own best interests, which are inevitably found to be consistent with those of the United States. After all, inasmuch as the United States both implements God's purposes and leads the secular progress of mankind, other states logically cannot have legitimate interests that oppose America's. By conceptually merging the U.S. national interest with the improvement of other countries in this way, the idea of American mission allows the United States to enhance its own power on the world stage not by "conquering" other states, but by "liberating" them.

By spreading its core values, the United States advances the new stage in human history whose inauguration was marked by the country's founding. Strength-

[20] Wilson Carey McWilliams, *The Idea of Fraternity in America* (Berkeley: University of California Press, 1973), 173.

[21] See Hartz, *The Liberal Tradition*, 3–32.

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ening the role of the United States in world affairs is therefore, *ipso facto*, legitimate and good for the world. As Arthur Schlesinger, Jr., wrote, "So the impression developed that in the United States of America the Almighty had contrived a nation unique in its virtue and magnanimity, exempt from the motives that governed all other states. . . . [This] brought the republic from the original idea of America as exemplary experiment to the recent idea of America as mankind's designated judge, jury, and executioner."[22] According to American nationalist doctrine, in short, the United States can justifiably increase its power and prestige on the world stage, consistently with its mission, because, unlike any other nation-state, it embodies and promulgates values that all people share, even if they do not know it yet. As the following section will show, President Bush has freshly generated a focused sense of mission through his handling of the terrorist attacks and re-articulation of America's world role. Notably, America's new mission as spelled out by Bush draws significantly from its Protestant roots.

Framing the Attacks and Defining the Bush Doctrine

Such an awesomely powerful experience as that which the nation underwent in September 2001 requires framing and contextualization by one who has the authority to do so. People need help getting their minds around events and circumstances that are otherwise incomprehensible. They need someone to explain to them the meaning of what they are going through, to answer the "why" questions that signature moments provoke. In the United States, it falls to the president to provide this service, and indeed this responsibility lies at the heart of the president's role in American governance. As the figurehead of the nation, the president is understood both to embody and to express its values, character, and purpose, and this status allows the president uniquely to speak both to and for the country as a whole. He is, in fact, expected to do so when conditions warrant.

The president's role as figurehead is also one that confers tremendous power, which he can use to generate support for favored policies.[23] A president's ability to shape public opinion is enhanced during crises because it is then that the American people most urgently cast about for leadership and solutions. It is also magnified in the realm of foreign affairs, where the president's constitutional authority is comparatively greater than in domestic affairs, especially since the Supreme Court's dubious but controlling decision in *U.S. v. Curtiss-Wright*, which asserted (with little basis) that the president's overriding authority in international affairs is rooted in sovereign prerogative rather than a constitutional allocation of power.[24] It is not coincidental, therefore, that the

[22] Schlesinger, "America: Experiment or Destiny," 517.

[23] Sam Kernell, *Going Public: New Strategies of Presidential Leadership* (Washington, DC: CQ Press, 1986).

[24] 299 U.S. 304, (1936).

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strongest and most meaningful statements regarding American national identity have come from presidents during wartime. September 11 was just the most recent event, like the Civil War or World War II, when Americans looked to their leader to help them understand what they were going through and what it meant for them as a people. It was also an opportunity for the president to seize control of the national agenda and shape the country's grand strategy in foreign policy. In classic fashion, President Bush accomplished both tasks by invoking nationalism and foreign policy in the service of each other.

In addition to providing reassurance, the speeches that Bush gave to the American people during the crucial week and a half between the attacks and his 20 September emergency State of the Union Address had two broad goals. The first was to equate the United States with freedom, compassion, and tolerance, qualities that Bush claimed made the country the target of the "evildoers" enmity. Bush's goal, which he easily achieved, was to define the world in Manichean terms, with the United States symbolizing "good" and its enemies embodying "evil." Doing so provided implicit moral justification for the outcome of his second goal, which was to prepare the public to accept the policy manifestations of the eventual administration response. These two rhetorical strategies worked in tandem, so that in the course of employing emotionally charged and provocatively nationalistic imagery, Bush incrementally introduced to the public the core elements of his antiterrorism and subsequently broader foreign policy agenda.

America the Free, Home of Compassion and Tolerance

As the quote introducing this paper reveals, President Bush had begun describing the terrorist strike as an attack on freedom as early as 12 September. He elaborated this theme in his remarks at the National Cathedral two days later during a civil–religious ceremony marking the National Day of Prayer and Remembrance (such healing events, charged with religious and nationalist imagery, follow every major national disaster). In this speech/political sermon, Bush declared, "In every generation, the world has produced enemies of human freedom. They have attacked America, because we are freedom's home and defender."[25] In a subsequent press conference, he added that the terrorists "can't stand freedom; they hate what America stands for."[26] These examples can be multiplied, and Bush's steady and unflinching repetition of the assertion that the United States was targeted *because* it represents freedom quickly became assimilated into Americans' understanding of the nature of their foes.

[25] "President's Remarks at National Day of Prayer and Remembrance," 14 September 2001, accessed on the White House website at http://www.whitehouse.gov/news/releases/2001/09/print/20010914-2.html, 2 October 2001.

[26] "Remarks by the President upon Arrival at the South Lawn," 16 September 2001, accessed on the White House website at http://whitehouse.gov/news/releases/2001/09/print/20010916-2.html, 2 October 2001.

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In addition to freedom, Bush also identified two other features as being part of the national character—compassion and tolerance—and according to the President, the terrorists attacked them, too. In one of his early speeches, for example, Bush affirmed, "In this trial, we have been reminded, and the world has seen, that our fellow Americans are generous and kind, resourceful and brave."[27] Later, he announced, "We're too great a nation to allow the evil-doers to affect our soul and our spirit. . . . This is a great land. It's a great land, because our people are so decent and strong and compassionate."[28] And in remarks condemning anti-Muslim activities, he declared, "Those who feel like they can intimidate our fellow citizens to take out their anger don't represent the best of America, they represent the worst of humankind, and they should be ashamed of their behavior. This is a great country. It's a great country because we share the same values of respect and dignity and human worth."[29]

Clearly, these expressions of American integrity were intended to reaffirm Americans' sense of worth and to support appropriate private conduct during a volatile period. Any leader in any country will testify to the goodness of his or her nation during a time of trial, and Bush was extraordinarily effective in helping the American people through those dark days. In conjunction with his steadily more militaristic rhetoric and identification of the enemy as evildoers who not only lacked American virtues but specifically attacked the United States because of them, his consistent equation of America with virtuousness served as well to dichotomize the world between those, such as the United States, who are good and those who oppose it, who are evil. In this way, by painting America and its enemies with such a broadly abstract and moralistic brush, Bush left himself no gray areas within which to conduct foreign affairs, one consequence of which is that those who disagree with the United States for any reason are thereby identifying themselves as either evil or, at best, morally flawed. At the time, though, this moralistic language seems to have been what the American people wanted and needed to hear. This tension between the demands of geopolitics and the need for American statesmen to use ideologically charged nationalistic language remains one of the tragic ironies of American politics.

Framing the attack as one motivated by a hatred of freedom and compassion enabled the president to emphasize that America's retaliation would be directed against moral outliers, and not against Islamic countries per se. "We don't view this as a war of religion, in any way, shape or form," he announced, for example. "And for those who try to pit religion against religion, our great nation will stand up and reject that kind of thought. . . . We're going to lead the

[27] "President's Remarks at National Day of Prayer and Remembrance."

[28] "Remarks by the President Supporting Charities," 18 September 2001, accessed on the White House website at http://www.whitehouse.gov/news/releases/2001/09/20010918-1.html, 4 October 2001.

[29] "Remarks by the President at the Islamic Center of Washington, DC," 17 September 2001, accessed on the White House website at http://whitehouse.gov/news/releases/2001/09/ 20010917-11.html, 2 October 2001.

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world to fight for freedom, and we'll have Muslim and Jew and Christian side by side with us."[30] This was an important point to make, and Bush did both the country and American nationalism a great service when he praised the Islamic faith.[31] Of course, these comments were made necessary by ugly incidents from around the country in which Muslim Americans and Arab Americans (and even a South Asian Sikh) were targeted by some of their white, Christian compatriots, who seemed to believe that September 11 marked the beginning of a religious war. The suggestion of holy war had also been reinforced by one of Bush's own comments, in which he said, "This crusade, this war on terrorism is going to take a while."[32] To be fair to the President, it is almost certain that he did not have the capital "C" Crusades in mind when he made that off-the-cuff remark. As our earlier discussion of the idea of American mission should make clear, a "crusading" spirit has always attached itself to American foreign policy, and it is reasonable to assume that Bush used the term in that sense. On the other hand, it is revealing that Bush did not consider how his Islamic audience would have interpreted his use of the word "crusade," coming as it did from an avowed Christian fundamentalist in response to an attack by Muslim individuals.

Indeed, given civil religion's prominence in America's nationalist mythos, it is not at all surprising that both Muslims and many non-Muslims, including Europeans of all stripes, have believed that America's war against terrorism has had a Christian dimension. The National Day of Prayer and Remembrance, after all, was held in a Christian house of worship, and the symbolism of the President preaching literally from the altar communicated far more about the religious center of gravity in the American nation than did his subsequent pleas for tolerance. As one might expect, moreover, his comments on this occasion were particularly evocative of civil–religious imagery, as his closing remarks indicate: "On this national day of prayer and remembrance, we ask almighty God to watch over our nation, and grant us patience and resolve in all that is to come. . . . May He bless the souls of the departed. May He comfort our own. And may He always guide our country. God bless America."[33] Of course, the President could not have done otherwise than lead this service even if he had been so inclined, and his sermon was ecumenical and deeply appreciated by Americans of all faiths. Nevertheless, the substance of his comments there and elsewhere during the first few days and weeks after the attacks reaffirmed the civil–religious dimension of American nationalism and helped the nation to take comfort in the belief that despite suffering apparent retribution for unnamed sins, they were, in fact, a good and noble people whose values and bearing still enjoyed divine favor.

[30] "Remarks by the President at Photo Opportunity with House and Senate Leadership," 19 September 2001, accessed on the White House website at http://whitehouse.gov/news/releases/2001/09/20010919-8.html, 5 August 2002.

[31] "Remarks by the President at Islamic Center."

[32] "Remarks by the President Upon Arrival at the South Lawn."

[33] "President's Remarks at National Day of Prayer and Remembrance."

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Bush's civil–religious fervor, it should be further pointed out, did not emerge spontaneously during the postattack climate of jingoistic mourning. Rather, it would be more accurate to say that September 11 created a particularly acute context within which Bush's already well-developed nationalism could find both ready articulation and an unusually receptive audience. Clear evidence of his pre–September 11 religious nationalism, for example, peppers his inaugural address, as when he perorated, "We are not this story's author, who fills time and eternity with his purpose."[34] Yet, it would be mistaken to understate the powerful role that the attacks themselves played in not only clarifying American nationalism but also in merging it with American foreign policy. If anything, September 11 roused Bush's righteous patriotism and gave it focused meaning and purpose.

Developing the Doctrine

In the chaos of September 11 and its aftermath, the desire for vengeance understandably surged through Americans' veins. In his address to the nation on the night of the attacks, therefore, Bush plainly stated: "The United States will hunt down and punish those responsible for these cowardly acts," adding, "The resolve of our great nation is being tested. But make no mistake: We will show the world that we will pass this test."[35] From the very outset, then, it was obvious that the United States would use force to strike back at those who viciously murdered its innocent civilians, and no state would have been expected to do otherwise. Given the fact that the actual perpetrators were dead, however, the question was, who to go after?

On 13 September, Bush gave his first hint of an answer when he announced that "*those who helped or harbored the terrorists* will be punished—and punished severely. The enormity of their evil demands it."[36] The following day at the national prayer service, Bush ratcheted up the moralism in his rhetoric, and in the process, he expanded the range of potential targets. "Our responsibility to history is already clear: to answer these attacks and rid the world of evil."[37] On 17 September, he clarified his moralism somewhat:

> We are planning a broad and sustained campaign to secure our country and *eradicate the evil of terrorism.* . . . Great tragedy has come to us, and we are meeting it with the best that is in our country, with courage and concern for others. Because this is America. This is who we are. This is what our enemies hate and have attacked. And this is why we will prevail.

[34] "President George W. Bush's Inaugural Address," 20 January 2001, accessed on the White House website at http://whitehouse.gov/news/inaugural-address.html, 23 September 2003.

[35] "Remarks by the President upon Arrival at Barksdale Air Force Base," 11 September 2001, accessed on the White House website at http://www.whitehouse.gov/news/releases/2001/09/20010911.1-html, 2 October 2001.

[36] "Presidential Proclamation: National Day of Prayer and Remembrance for the Victims of the Terrorist Attacks on September 11, 2001," 13 September 2001, accessed on the White House website at http://www.whitehouse.gov/news/releases/2001/09/20010913-7.html, 2 October 2001 (emphasis added).

[37] "President's Remarks at National Day of Prayer and Remembrance."

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(Bush was explicit in extending the object of the American response beyond the immediate perpetrators when he said, "After all, our mission is not just Osama bin Laden, the al Qaeda organization. Our mission is to battle terrorism and to join with freedom-loving people."[38])

In just a few days, then, the President succeeded in forcefully reassuring the American people that they were great, strong, and good and that they would punish with force those who had made them suffer. But in his moral posturing and nationalistic fervor, he also promised them more: the United States would not only punish the network behind the nefarious suicide pilots, it would also eradicate terrorism itself. Further, the United States would target not only terrorists but also those who aid them. Thus, when at last he felt prepared to articulate fully the country's formal response to the terrorist attacks, President Bush had already prepared the American people to accept what needed to be done and to believe that the country's response would reflect the essential spirit of American national identity. But in seizing the opportunity to refashion the national mission, he also left America's options extremely open-ended. In this way, he spelled out a strategy that went far beyond what a narrow tailoring to the proximate causes of September 11 would have suggested. The result is what we now call the Bush doctrine.

The Bush Doctrine: First Draft

Bush devoted a substantial portion of his 20 September emergency State of the Union Address, in which he first spelled out his doctrine, to identifying America's new enemies. In particular, he named al Qaeda and the Taliban regime as the objects of immediate concern, and he made some very specific requests of the latter if it were not to risk facing American military might.[39] As we now know, the Taliban refused these demands, and the United States removed it from power in Afghanistan. When he had previously defined the enemy more broadly than these two groups, Bush had identified states that harbor or support terrorism as "hostile regimes," but in this address, he went further: "Every nation in every region now has a decision to make," he intoned. "Either you are with us or you are with the terrorists." Like any great moral issue, apparently, America's global war on terror could not tolerate neutrality.[40]

Blending his new "with-us-or-against-us" posture with traditional, universalist constructions of American nationalism, Bush then described the new war on terror as one to be waged for the good of mankind. "This is not, however, just

[38] "Remarks by the President to Employees at the Pentagon," 17 September 2001, accessed on the White House website at http://whitehouse.gov/news/releases/2001/09/20010917-3.html, 4 October 2001 (emphasis added).

[39] George W. Bush, "President Bush's Address on Terrorism before a Joint Meeting of Congress: Transcript," 21 September 2001, accessed on *New York Times on the Web* at www.nytimes.com/2001/09/21/national/21BTEX.html, 21 September 2001.

[40] Ibid.

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America's fight," he claimed. "And what is at stake is not just America's freedom. This is the world's fight, this is civilization's fight, this is the fight of all who believe in progress and pluralism, tolerance and freedom." In this way, Bush both transformed an attack against one country into an attack on the "civilized" world—a suggestion of collective security that he acknowledged in a passing reference to NATO[41]—and cemented the globally Manichean perspective that he had been encouraging since the attacks.

Interpolated within these descriptions of American national identity and the enemy that opposed it were suggestions about what exactly the country would do to win the "war." Most important was his hint that the use of military force was imminent, and that it would be directed against terrorists wherever they happened to be. In addition, he promised to "starve terrorists of funding" and to use "every means of diplomacy, every tool of intelligence, every instrument of law enforcement" to destroy the terrorist networks. He would nurture a multilateral coalition to achieve this end, which would be bound not only by shared values but also by a shared vulnerability to terrorism. Bush also announced the creation of the Office of Homeland Security, indicating the new priority of the government's bureaucracies.

Ultimately, Bush framed the conflict against terrorism as implicating the world's destiny. On one side were al Qaeda and other "enemies of freedom," who had the goal of "remaking the world and imposing [their] radical beliefs on people everywhere." On the other side was the United States, with its own ideas about how the world should look:

> As long as the United States is determined and strong, this will not be an age of terror. This will be an age of liberty here and across the world. . . . In our grief and anger, we have found our mission and our moment. Freedom and fear are at war. The advance of human freedom, the great achievement of our time and the great hope of every time, now depends on us. Our nation, this generation, will lift the dark threat of violence from our people and our future. We will rally the world to this cause by our efforts, by our courage. . . . Freedom and fear, justice and cruelty, have always been at war. And we know that God is not neutral between them.[42]

This earliest incarnation of the Bush doctrine thus held that the United States would use military force against terrorists of global reach and against the states that harbor them. It would also engage in a multilateral strategy of freezing financial assets and sharing intelligence in pursuit of the goal of a global freedom built in America's image. These were fairly specific priorities, albeit broadly framed, and they responded to the assault of September 11. As we have since witnessed, though, Bush's broadly dichotomous language has proven to be as important to his foreign policy objectives as these concrete proposals, and the logic behind the rhetoric has spawned a comprehensive vision that builds on this post–September 11 groundwork even as it defines a radical new blueprint for international relations and America's role in them.

[41] Ibid.
[42] Ibid.

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FINALIZING THE DOCTRINE: FROM NYC TO BAGHDAD AND BEYOND

Since Bush first enunciated his doctrine in September 2001, he has added two significant dimensions to it. The first is his association with the "enemy" of those who develop weapons of mass destruction (WMDs). He first alluded to this threat in his United Nations speech of 9 November 2001—less than two months after the terrorist attacks and long before Iraq was on most people's radar screens—when he warned, "Civilization itself, the civilization we share, is threatened."[43] Bush more formally incorporated these actors into the Bush doctrine by memorably uttering, during his annual State of the Union address in January 2002, "States like these [he mentioned specifically Iran, Iraq, and North Korea], and their terrorist allies, constitute an axis of evil, arming to threaten the peace of the world."[44] Bush's use of this by-now notorious phrase was premised on these states' desire to develop WMDs, a dubious criterion for such severe moral evaluation (especially when one considers that the United States itself has developed many such weapons), but one that Americans were prepared to accept as long as it somehow related to terrorism. Bush continued to stress the centrality of WMDs to his antiterror agenda throughout the year following the terrorist attacks, and by seamlessly integrating this concern into his post–September 11 doctrine, he normatively and conceptually tied his subsequent Iraq policy into the deep structure of America's global posture. In March, for example, Bush stressed that "Men with no respect for life must never be allowed to control the ultimate instruments of death."[45] He repeated the new mantra a month later: "And for the long-term security of America and civilization itself, we must confront the great threat of biological and chemical and nuclear weapons in the hands of terrorists or hostile regimes. . . . History has called us to these responsibilities and we accept them. America has always had a special mission to defend justice and advance freedom around the world."[46]

The second major development in the Bush doctrine, preemption, laid the groundwork for Bush's Iraq policy even more forcefully. In a major foreign policy statement, his graduation speech at West Point on 1 June 2002, President Bush spelled out America's new policy. As one of the most important recent addresses on U.S. foreign policy, this speech merits particular attention. In it, Bush was unusually clear in articulating the rationale for America's preemption

[43] George W. Bush, "Text: President Bush Addresses the U.N.," 10 November 2001, accessed on *The Washington Post Online* at www.washingtonpost.com/wp-srv/nation/specials/attacked/transcripts/bushtext_111001, 10 November 2001.

[44] George W. Bush, "Prepared Text: The State of the Union Address," 29 January 2002, accessed on *The Washington Post Online* at http://washingtonpost.com/wp-srv/onpolitics/transcripts/sou012902.html, 29 January 2002.

[45] "Remarks by the President on the Six-Month Anniversary of the September 11th Attacks," 11 March 2002," accessed on the White House website at http://www.whitehouse.gov/news/releases/2002/03/20020311-1.html, 5 August 2002.

[46] "President Promotes Compassionate Conservatism," 30 April 2002, accessed on the White House website at http://www.whitehouse.gov/news/releases/2002/04/20020430-5.html, 5 August 2002.

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(or, more accurately, *prevention*) policy: "We cannot defend America by hoping for the best. . . . If we wait for threats to fully materialize, we will have waited too long. . . . We must take the battle to the enemy, disrupt his plans, and confront the worst threats before they emerge."[47] By explicitly advocating the violation of one of international society and law's most fundamental norms, that against external aggression, while simultaneously eschewing the need for international approval, Bush moved the United States considerably closer to an unambiguously unilateralist posture. The United States, he communicated through this policy, would not be bound by the same rules as other states. His rationale was American exceptionalism ("The twentieth century ended with a single surviving model of human progress," he claimed at one point), but the real basis of his position was American power.[48] Nevertheless, he argued, because the United States represents universal moral values, other states should not regard this posture as dangerous to them—unless they are on the wrong side of the moral coin: "Because the war on terror will require resolve and patience, it will also require firm moral purpose. In this way our struggle is similar to the Cold War . . . [and] moral clarity was essential to our victory in the Cold War. Moral truth is the same in every culture, in every time, and in every place. . . . We are in a conflict between good and evil, and America will call evil by its name."[49]

The Bush Doctrine, Fully Formed: The National Security Strategy

All of the elements of Bush's vision for America's global role came together in the National Security Strategy (NSS), which was released on 20 September 2002.[50] This document systematically laid out the administration's vision for America's place in the world, and it contained no surprises. Indeed, each section of the strategy was introduced with an excerpt from one or another previous speech—some of which have also been quoted here. In the NSS, Bush asserted the universality of American values and the inherent entitlement of the United States to establish the conditions according to which international relations should operate. As G. John Ikenberry put it, "It is a vision in which sovereignty becomes more absolute for America even as it becomes more conditional for countries that challenge Washington's standards of internal and external behavior."[51] Noting the country's military and economic advantage

[47] "Remarks by the President at 2002 Graduation Exercise of the United States Military Academy," 1 June 2002, accessed on the White House website at http://www.whitehouse.gov.news/releases/2002/06/20020601-3.html, 5 August 2002.

[48] Ibid.

[49] Ibid.

[50] For the best analysis of this document, see Edward Rhodes, "The Imperial Logic of Bush's Liberal Agenda," *Survival* (Spring, 2003): 131–154.

[51] G. John Ikenberry, "America's Imperial Ambition," *Foreign Affairs* 81 (September/October 2002): 44–60.

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over both its actual and its potential competitors, the NSS made clear that both American interests and human progress depended on the continuation of this power gap: "Today, the United States enjoys a position of unparalleled military strength and great economic and political influence. . . . We will maintain the forces sufficient to support our obligations, and to defend freedom. Our forces will be strong enough to dissuade potential adversaries from pursuing a military build-up in hopes of surpassing, or equaling, the power of the United States."[52] Unabashedly, the NSS defended this posture by reference to "a distinctly American internationalism that reflects the union of our values and our national interests." It continued, "The aim of this strategy is to help make the world not just safer but better."[53] In this way, and throughout the document, as the following synopsis will demonstrate, both the exceptionalism and the universalism of American national identity were consistently invoked to frame and legitimate—and in many cases, in fact, to constitute—the stated foreign policy interests. The NSS is the official statement of the Bush doctrine, and its vision is startling in its scope.

Repeating an argument first made in the West Point address, the strategy argued that the world was at a turning point and that a new era in international politics was dawning: "Today, the international community has the best chance since the rise of the nation-state in the seventeenth century to build a world where great powers compete in peace instead of continually prepare for war. Today, the world's great powers find ourselves on the same side—united by common dangers of terrorist violence and chaos. . . . We are also increasingly united by common values."[54] Bush envisioned a central role for the United States in the building and maintenance of this world order and found justification for this position in its universalism: "Freedom is the non-negotiable demand of human dignity; the birthright of every person—in every civilization. . . . Today, humanity holds in its hands the opportunity to further freedom's triumph over [its] foes. The United States welcomes our responsibility to lead in this great mission."[55]

The specific actions outlined in the NSS that would help to make concrete these grandiose sentiments include the following: support "human dignity"; strengthen antiterrorism alliances; defuse regional conflicts; eliminate the threat of WMDs; enhance free markets and free trade; "expand the circle of development by opening societies and building the infrastructure of democracy"; develop multilateral agendas; and upgrade the military.[56] It is worth taking a moment here to refer to some of the language used in the NSS to frame a few of these objectives as a way of demonstrating the moralistic and nationalistic logic of the Bush doctrine. Regarding the goal of "Champion[ing] Aspirations for Hu-

[52] George W. Bush, "Full Text: Bush's National Security Strategy," 1, 22–23.
[53] Ibid., 3.
[54] Ibid., 2.
[55] Ibid., 3.
[56] Ibid., 3–4.

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man Dignity," for instance, the NSS noted that "the United States must defend liberty and justice because these principles are right and true for all people everywhere. . . . Embodying lessons from our past and using the opportunity we have today, the national security strategy of the United States must start from these core beliefs and look outward for possibilities to expand liberty."[57] The war on terrorism, moreover, was treated not simply as a security threat: "In the war against global terrorism, we will never forget that we are ultimately fighting for our democratic values and way of life. Freedom and fear are at war."[58] And in promoting its economic vision, Bush reminded readers that "The concept of 'free trade' arose as a moral principle even before it was a pillar of economics."[59]

Many elements of the strategy seemed to be directed specifically at justifying the by-then clearly developing war against Iraq. In particular, the NSS undertook a painstaking explanation about how both WMDs and preemption were central components of America's broader foreign policy vision. The NSS tied the two concerns together in a manner that clearly argued that the primary indicator of whether the United States would find itself obligated to intervene in a given state was the type of regime that ruled it. Of immediate concern were "a small number of rogue states that, while different in important ways, share a number of attributes." Rogue states sponsor terrorism, ignore international law, threaten their neighbors, "brutalize their own people and squander their national resources for the personal gain of the rulers." They strive to acquire WMDs "to be used as threats" and "reject basic human values and hate the United States and everything for which its stands."[60] Unmistakably, Iraq satisfied these criteria. The NSS insisted that preemption was the only viable policy for dealing with rogue states because they were destabilizing and unpredictable, unlike America's previous adversary, the Soviet Union. Furthermore, given these characteristics during a time marked by the threat of global terrorism and the capacity of modern technology, preemption, properly applied, included preventive action aimed at eliminating threats before they became manifest.[61]

In the NSS, therefore, we can see how Bush carried forward on the current of American nationalism September 11's urgent posture and began applying it indirectly to Iraq. Certainly, the NSS was not meant to serve merely as a justification for the evolving Iraq policy, but it did spell out evocatively why an American invasion was justified by the logic of both interests and values.

The War Against Iraq

The NSS presents a broad vision for U.S. foreign policy, and many of its stated goals are both commendable and consistent with the nobler strands of Ameri-

[57] Ibid., 4–5.
[58] Ibid., 7.
[59] Ibid., 14.
[60] Ibid., 10.
[61] Ibid., 11–12.

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can political thought and practice. Who could argue, after all, with defending human dignity or helping to defuse regional conflicts? Nevertheless, the statement too conveniently provides a coherent framework for justifying what was by then the obvious focus of the administration: regime change in Iraq. Rumors of the administration's intentions regarding Iraq had been circulating for some time before the release of the NSS (according to Richard Haas, the director of the policy planning staff at the State Department, the decision was set by early July).[62] When President Bush formally dispelled these rumors by unconditionally confirming them, he chose to make his announcement in a speech to the United Nations on 12 September 2002—just after the first anniversary of September 11. (The first clear statement from the administration stating that it had designs on Saddam Hussein actually came from Vice President Dick Cheney, in his speech to the National Convention of the Veterans of Foreign Wars on 26 August 2002. The 12 September 2002 speech was the first statement offered by the President himself.[63]) If the timing was insufficient to convey the symbolic merging of the Iraq agenda with the more general response to September 11, his rhetoric eliminated any lingering doubts.

In his 12 September 2002 speech, Bush sought to argue systematically that Iraq was in violation of several international laws and that the world community must respond vigorously to the challenge this situation represented. Although it is not the purpose of this paper to explore the machinations leading up to the war or to assess the validity of the war itself, it is pertinent to excerpt here some of the key speeches surrounding the war to show how Bush not only mingled it into the emotional viscera of September 11, but also legitimated it according to the nationalist themes detailed above. In his 2002 UN speech, for instance, Bush insisted:

> With every step the Iraqi regime takes toward gaining and deploying the most terrible weapons, our own options to confront the regime will narrow. And if an emboldened regime were to supply these weapons to terrorist allies, then the attacks of September 11 would be a prelude to far greater horrors. . . . We must choose between a world of fear and a world of progress. We cannot stand by and do nothing while dangers gather. We must stand up for our security and for the permanent rights and hopes of mankind. By heritage and by choice, the United States of America will make that stand. And, delegates to the United Nations, you have the power to make that stand as well.[64]

A few weeks later, on 7 October 2002, Bush made his pitch directly to the American people from the Cincinnati Union Terminal. In his speech, he de-

[62] Nicholas Lemann, "How It Came to War," *The New Yorker* (31 March 2003): 36–40, 39.

[63] See Richard Cheney, "Full Text: In Cheney's Words," 26 August 2002, accessed on *New York Times Online* at http://www.nytimes.com/2002/08/26/international/middleeast/26WEB-CHENEY.html, 26 August 2002.

[64] George W. Bush, "Text: Bush's Speech to the U.N. on Iraq," 12 September 2002, accessed on *New York Times Online* at http://www.nytimes.com/2002/09/12/politics/12AP-PTEX.html, 12 September 2002.

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tailed various atrocities the Hussein regime had committed upon the Iraqi people as a way of demonstrating its evil character. Several times, Bush referred explicitly to the terrorist attacks of September 11, at one point even linking Saddam's regime to the al Qaeda terrorist network—a connection that has never been convincingly proven and that has always been the weakest component of the administration's case for war.

In these and other speeches, Bush and other members of his administration pleaded that war would only be a last resort and that all sides hoped that a peaceful resolution could be found to the suddenly urgent crisis surrounding Hussein's alleged development of WMDs. From the moment that Iraq supplanted Afghanistan as the focus of the administration and of public discourse, however, it appeared obvious that there would be war. Bush therefore needed to convince the American people—and possibly the world, although that audience seemed secondary—that war's sacrifice was both necessary and honorable. The Bush doctrine performed this task. As noted, Bush consistently and repeatedly referred to September 11 in his Iraq speeches, thus reinforcing in Americans' minds a protean connection between the two, and in his major speeches touching on the topic, he made sure to recur to the nationalist imagery that he had already commandeered in the service of his doctrine.

In his 2003 State of the Union of Address, for example, Bush transitioned from his summary of the immediate administration response to September 11 to his discussion of Iraq by providing a summary of twentieth-century U.S. foreign policy that celebrated a noble superpower saving the world from evil. Bush's conclusion of the address—the time when presidents reliably invoke great and woolly abstractions to characterize the nation—employed such classically nationalist themes in a way that clearly implicated their relevance to U.S. foreign policy:

> Americans are a resolute people, who have risen to every test of our time. Adversity has revealed the character of our country, to the world, and to ourselves. America is a strong nation, and honorable in the use of our strength. We exercise power without conquest, and sacrifice for the liberty of strangers. Americans are a free people, who know that freedom is the right of every person and the future of every nation. The liberty we prize is not America's gift to the world, it is God's gift to humanity. We Americans have faith in ourselves but not in ourselves alone. We do not claim to know all the ways of Providence, yet we can trust in them, placing our confidence in the loving God behind all of life, and all of history. May He guide us now, and may God continue to bless the United States of America.[65]

Throughout his speeches surrounding the Iraq war, Bush not only relied on God to justify his actions, he also claimed that the United States was ushering in a new, more democratic era. On 26 February 2003, for example, he justified the looming war by claiming:

[65] George W. Bush, "State of the Union Address," 28 January 2003, accessed on *New York Times Online* at http://www.nytimes.com/2003/01/28/politics/28CND-TEXT1.html, 28 January 2003.

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> The world has a clear interest in the spread of democratic values, because stable and free nations do not breed the ideologies of murder. They encourage the peaceful pursuit of a better life. . . . A new regime in Iraq would serve as a dramatic and inspiring example of freedom for other nations in the region. . . . By the resolve and purpose of America, and of our friends and allies, we will make this an age of progress and liberty. Free people will set the course of history, and free people will keep the peace of the world.[66]

Finally, having thus characterized America's mission to Iraq and the world, it was only to be expected that Bush would celebrate the conclusion of the "main part" of the hostilities by declaring, "In this battle, we have fought for the cause of liberty, and for the peace of the world." Bush wrapped his characterization of the war in nationalist imagery that not only referred to American history and values, but also hinted that service to America is akin to service to God:

> Our commitment to liberty is America's tradition—declared at our founding, affirmed in Franklin Roosevelt's Four Freedoms, asserted in the Truman Doctrine and in Ronald Reagan's challenge to an evil empire. We are committed to freedom in Afghanistan, in Iraq and in a peaceful Palestine. The advance of freedom is the surest strategy to undermine the appeal of terror in the world. . . . American values and American interests lead in the same direction: We stand for human liberty. . . . Those we lost were last seen on duty. Their final act on this Earth was to fight a great evil and bring liberty to others.[67]

There is little reason to doubt that President Bush, as a leader whose obvious nationalism colors his perspective of global affairs, ever doubted that American security (filtered through the experience of September 11) and the peace and liberty of the world are coterminous.

Discussion and Conclusion

Clearly, President Bush has mastered the art of marshalling nationalist symbolism in support of his foreign policy vision. This skill is both useful and problematic, for while American national identity has proven to be remarkably durable, current events suggest that it has become in some ways dangerously obsolete. Inasmuch as the United States is now at the center of the international system,[68] it can no longer find moral self-justification in being untainted by a corrupt world that it has been chosen to lead out of the dark ages, as historically it has liked to believe. Rather, it is essential that the United States accept that its relationship with the international order has changed since the early days of the

[66] George W. Bush, "President Discusses the Future of Iraq," 26 February 2003, accessed on the White House website at http://www.whitehouse.gov/news/releases/2003/02/20030226-11.html, 24 May 2003.

[67] George W. Bush, "President Bush Announces Combat Operations in Iraq Have Ended," 1 May 2003, accessed on the White House website at http://whithouse.gov/news/releases/2003/05/20030501-15.html, 24 May 2003.

[68] Stephen G. Brooks and William C. Wohlforth, "American Primacy in Perspective," *Foreign Affairs* 81 (July/August 2002): 20–33.

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republic when the core elements of American national identity were first set in place. In particular, traditional claims to moral distinctiveness must be abandoned. Unless its multilateral and nation-building dimensions—the cosmopolitan shadows of American national identity—are re-emphasized and strengthened, American universalism will continue to spawn a self-deceiving and increasingly dangerous paternalism. By this I do not mean to argue that American norms are flawed or that liberalism is not, on balance, preferable to its chief competitors. In general, Americans have accomplished many good things, both in terms of establishing liberal democracy as the norm for domestic governance and in regard to fostering a more stable and prosperous international community. Rather, it is the missionary disposition, the smug "holier-than-thou" character of American nationalism that must change. Simply put, it is time that Americans shed their self-identity as an exceptional people and accept instead their mature identity as integrated global citizens.[69]

Part of what is at stake is what Joseph Nye calls American "soft power," or the ability of the United States to influence global affairs without coercion by relying only on the attraction of its norms and success.[70] The very existence of American soft power demonstrates that American nationalism does, in fact, have a noble side, which most of the world's societies have recognized at some point or other.[71] Indeed, international norms today closely resemble those that the United States claims to champion. The world may not yet be at Francis Fukuyama's "End of History," but international law and current world opinion each rests inordinately on the same liberal democratic norms that the United States promulgates.[72] This global situation suggests that claims to American universalism are less fatuous than anti-American demonstrators have been prone to argue; freedom, as Woodrow Wilson and Bush each claimed for his own purposes, certainly does have a global appeal. The challenge confronting Americans as they enter a "new world order" will be to disentangle this recognition from the belief that only the moral agency of the United States can lead to the realization of humanity's promise.[73]

The methods that the United States employed to achieve its goals between September 11 and the Iraq war, however, have generally perpetuated the globally unpopular, chauvinistic, and ultimately dangerous tendencies of American nationalism while undercutting those aspects of the American experience that other peoples have found attractive. Because America's new foreign policy di-

[69] On this point, see Henry Nau, *At Home Abroad: Identity and Power in American Foreign Policy* (Ithaca, NY: Cornell University Press, 2002).

[70] Joseph Nye, *The Paradox of American Power: Why the World's Only Superpower Can't Go It Alone* (New York: Oxford University Press, 2002).

[71] Geir Lundestad, "'Empire By Invitation' in the American Century" in Michael J. Hogan, ed., *The Ambiguous Legacy: US Foreign Relations in the "American Century"* (New York: Cambridge University Press, 1999), 52–91.

[72] Thomas M. Franck, "The Emerging Right to Democratic Governance," *American Journal of International Law* 86 (January 1992): 46–91.

[73] See Graham T. Allison, Jr. and Robert P. Beschel, Jr., "Can the United States Promote Democracy?" *Political Science Quarterly* 107 (Spring 1992): 81–98.

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rection was spurred by an attack on American soil, which itself has become interwoven into the national mythos, militarism has become among the most pronounced features of the country's global posture. Unilateral militarism is a strategy that not only casts American exceptionalism in an ugly light but also belies, or at the very least distorts, claims to American universalism. Given the fact that as this paper shows, American nationalist rhetoric has been a fixture in Bush's foreign policy speeches, an unavoidable consequence is that the militaristic tactics employed by the administration will color the world's perceptions of American norms and identity. This result is both unfortunate and unnecessary.

A substantial source of the Bush doctrine's moral difficulties is rooted in its—and, more generally, American nationalism's—problematic association of a distinct political community with higher values. Consider the concept "freedom," for example, which Bush has relied heavily upon to define the United States. Any abstract term such as freedom can only have a substantive meaning that is determined in part by its cultural context. In the United States, the meaning of the term "freedom" has evolved as American notions of justice have changed over time, as any casual reading of the history of any particular constitutional right amply demonstrates.[74] When one associates such a general concept with any particularistic community or practice in the way that both President Bush and, more generally, American nationalism have related the United States to freedom and human dignity, the effect is not only to endow the community with the esteemed qualities of the abstraction, but also to define the principle according to the imperfections of the community. In the new age of American imperialism, as Bush insists on corrupting American principles with a casual prioritization of the country's strength, he risks rendering American principles meaningless. Virtue can only be buried under so much hypocrisy before it loses its moral force. It would be a profound shame if the United States were to squander its opportunity to help spread democracy in a meaningful and systematic way by employing means whose logic so clearly contradicts the ends.[75]

Today, after a century in which the American mission to spread the nation's values and ideals abroad enjoyed obvious success, the United States is exceptional only in the preponderance of its power. Precisely because the United States has succeeded in abetting the spread of democracy, it is no longer ideologically exceptional, and because it is now deeply networked into the international system, it cannot eschew the ordinary requirements of geopolitical participation, as it once was able to do (although its involvement in world affairs was always greater than the myth of early American isolationism maintains). The values that Americans have always claimed to represent must be viewed not as *descriptions* of American identity, but as ideals to which the nation must

[74] See Eric Foner, *The Story of American Freedom* (New York: W.W. Norton & Co., 1998).

[75] See Rhodes, "The Imperial Logic of Bush's Liberal Agenda"; and John Gerard Ruggie, "Third Try at World Order? America and Multilateralism after the Cold War," *Political Science Quarterly* 109 (Autumn 1994): 553–570.

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aspire, not only domestically, but also in its relations with the rest of the world. If the United States is in some way a literal embodiment of the values that it esteems, then it is no longer accountable to the standards those values represent. Instead, its practices become definitive of the standards to which others are to be held accountable. When one considers the deep flaws of this (or any other) state, the implications of this normative matrix become quite worrisome.

There is another, more practical reason for abandoning exceptionalism: the Manichean streak, rooted in American exceptionalism, that can lurk beneath the surface of American nationalism is unwise in international relations because it distracts policy makers from the messy realities of global politics. Realist theorists of international relations, beginning with E.H. Carr, have made it abundantly clear that pursuing black-and-white ideals at the expense of proximate, accessible political goals is not only unwise but also, ultimately, destructive. Unfortunately, September 11's moral "clarification" on this point was, once again, counterproductive because the terrorist attacks naturally invited a fiercely binary view of the world and America's role in it. The logic that the Bush doctrine has tapped into goes something like this: inasmuch as the United States embodies what is good and just, to oppose its interests is *ipso facto* to define oneself as evil. This stance is especially ill-suited to America's current world stature, and it risks encouraging both ideological backlash and great-power balancing. Thus, as he finds himself increasingly tempted to ignore world opinion as he defines America's new world role, Bush would do well to recall Senator J. William Fulbright's insight:

> Power tends to confuse itself with virtue and a great nation is peculiarly susceptible to the idea that its power is a sign of God's favor, conferring upon it a special responsibility for other nations—to make them richer and happier and wiser, to remake them, that is, in its own shining image. Power confuses itself with virtue and tends to take itself for omnipotence. Once imbued with the idea of mission, a great nation easily assumes that it has the means as well as the duty to do God's work. The Lord, after all, surely would not choose you as His agent and then deny you the sword with which to work his will.[76]

Scholars in the post–Cold War era have frequently argued that the United States must redefine the national interest so that it can conform more productively to new global realities.[77] What this paper's arguments suggest is that the national interest will not—cannot—change unless and until the national identity upon which it rests also changes. The tragic flaw of the Bush doctrine is that it draws on a model of American nationalism that has become outdated. In that sense, the tragedy is not only Bush's, but also our own.

[76] J. William Fulbright, *The Arrogance of Power* (New York: Random House, 1966), quoted in Cherry, *God's New Israel*, 328.

[77] See Allison and Beschel, "Can the United States Promote Democracy?"; Nau, *At Home Abroad*; Nye, *The Paradox of American Power*; Ruggie, "Third Try at World Order."

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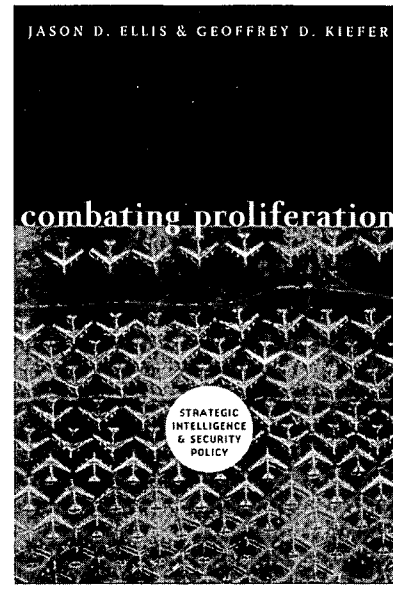
Combating Proliferation

Strategic Intelligence and Security Policy

Jason D. Ellis and Geoffrey D. Kiefer



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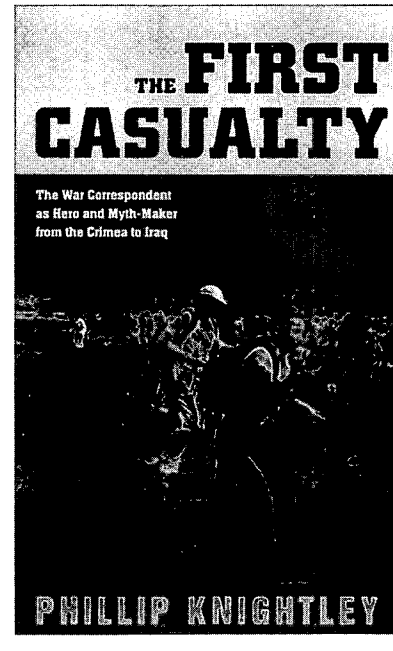

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Managed Participation in China

YONGSHUN CAI

Reform that negatively affects people's interests may lead to resistance that not only thwarts reform but also threatens social stability and the careers of politicians who are deemed responsible for unpopular consequences. Accordingly, governments must be adept at managing social forces and controlling social change by adopting appropriate strategies.[1] In democracies, politicians' worry over unpopular reform stems from the political system that subjects them to the vote of citizens.[2] This, however, does not imply that reform in authoritarian regimes, where there is a lack of meaningful elections, would proceed more easily. The collapse of the former Soviet Union following its various efforts to change the Communist system points to the difficulties inherent in reform. Martin Malia concludes that "communism cannot be reformed or given a human face; it can only be dismantled and replaced."[3]

In China today, various reform measures have generated numerous conflicts in society. In rural areas, fiscal reform and the resulting financial burdens on peasants have led to continual and widespread resistance: "The Chinese countryside has seen more disturbances during the twenty years of reform than during the previous thirty . . . the second half of the 1980s was more agitated than the first half, and . . . the 1990s have been more unsettled still."[4] Mean-

[1] Samuel Huntington, *Political Order in Changing Societies* (New Haven, CT: Yale University Press, 1968), 345.

[2] Paul Pierson, *Dismantling the Welfare State?* (New York: Cambridge University Press, 1994), 19.

[3] Martin Malia, "Leninist Endgame," *Daedalus* 121 (Spring, 1992): 57–75.

[4] Lucian Bianco, *Peasants without the Party: Grass-roots Movements in Twentieth-Century China* (Armonk, NY: M.E. Sharpe, 2001), 245; Thomas Bernstein and Xiaobo Lu, *Taxation without Representation in Contemporary Rural China* (New York: Cambridge University Press, 2003), chapter 5; Elizabeth Perry, *Challenging the Mandate of Heaven: Social Protest and State Power in China* (Armonk, NY: M.E. Sharpe, 2001); Kevin O'Brien, "Collective Action in the Chinese Countryside," *The China Journal* 48 (July 2002): 139–154.

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while, since the 1990s, urban China has witnessed significant popular resistance arising from the reform of state-owned enterprises (SOEs) and from massive worker layoffs.[5] President Jiang Zemin warned in 1999 that the government must aptly manage the relations between reform, development, and stability to prevent reform from threatening social stability.[6]

Yet, the numerous disturbances thus far have not seriously disrupted social order in China because most of these disturbances have been short-lived and nonviolent.[7] And more significantly, economic reform continues. This has been reflected in the reform of SOEs—probably the most challenging sector in China's economic transition. Although worker resistance slowed down some reform measures, such as privatization,[8] it has not stopped economic restructuring. In 1995, the Chinese government began privatizing, closing down, or declaring bankrupt small state-owned and collective enterprises. In 1997, the government formally advocated the privatization of small SOEs nationwide, and by 1999, the government further applied these policies to medium-sized and large SOEs.[9] From 1995 to 1998, the number of industrial SOEs decreased by about 44 percent.[10] From 1995 to 2000, the number of employees in state and collective sectors decreased by more than 48 million, a number equivalent to the population of South Korea.[11] All these reforms have been achieved in the absence of an adequate welfare system and in an unfavorable reemployment environment.[12]

In the discussion on reform in authoritarian regimes, it has been suggested that appropriate reform strategies may reduce the risks involved. For instance, Anthony Oberschall concludes that reform is less risky for authoritarian gov-

[5] Ching Kwan Lee, "From the Specter of Mao to the Spirit of the Law: Labor Insurgency in China," *Theory and Society* 31 (April 1992): 189–228; Yongshun Cai, "The Resistance of Chinese Laid-off Workers in the Reform Period," *The China Quarterly* 170 (June 2002): 327–344; William Hurst and Kevin O'Brien, "China's Contentious Pensioners," *The China Quarterly* 170 (June 2002): 345–360; Feng Chen, "Subsistence Crises, Managerial Corruption and Labor Protests in China," *The China Journal* 44 (July 2000): 41–63; Dorothy Solinger, "The Potential for Urban Unrest: Will the Fencers Stay on the Piste?" in David Shambaugh, ed., *Is China Unstable?* (Armonk, NY: M.E. Sharpe, 2000), 79–94.

[6] Reported in an unsigned piece of news in *Liaoning Ribao* [Liaoning Daily], 13 August 1999.

[7] It is true that there have been exceptions where large-scale collective action lasted for days in northeast China. Erik Eckholm, "Where Workers, Too, Rust, Bitterness Boils," *The New York Times*, 20 March 2002.

[8] Yongshun Cai, "Relaxing the Constraints from Above: Politics of Privatizing Public Enterprises in China," *Asian Journal of Political Science* 10 (December 2002): 94–121.

[9] The Document Research Office of the Chinese Central Party Committee, *Shisida Yilai Guoyou Qiye Gaige He Fazhan Dashi Jiyao* [A Record of the Important Decisions Regarding the Reform of SOEs since the 14th Party Congress] (Beijing: Zhongyang Wenxian Chubanshe, 1999), 211.

[10] The State Statistical Bureau, *Da Toushi* [A Comprehensive Analysis] (Beijing: Zhongguo Fazhan Chubanshe, 1998), 214–215; *China Financial Statistical Materials* (Beijing: Zhongguo Jinrong Chubanshe, 2000), 499.

[11] Yining Zhao, "Wei Shehui Ruoshi Qunti 'Xuezhongsongtan'" [Providing Crucial Help to the Deprived in Society], *Liaowang* [Perspective] 17 (April, 2002), 12.

[12] Dorothy Solinger, "Labor Market Reform and the Plight of the Laid-off Proletariat," *The China Quarterly* 170 (June 2002): 304–326.

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ernments when an appropriate sequence is chosen. An authoritarian regime can most successfully prevent social disruptions if it first institutes socioeconomic reform to improve the condition of the lower classes. After achieving success in economic reform, the regime can then introduce civil and political rights demanded by social groups. The reverse strategy of relaxing coercive social control with the introduction of civil liberties has a higher chance of failing, thereby generating widespread and continued turmoil during which the ruling groups will be forcefully overthrown.[13] The reform experience in China seems to have followed the logic of an economic-to-political sequence.[14] Unlike the former Soviet Union, China has focused on economic rather than political reform over the years, although limited political changes have been instituted.[15]

Although research on reform strategies that can be employed by authoritarian regimes has promoted understanding of the difficulty of reform and the importance of these strategies, it has not addressed several important issues. Why and how is it possible for citizens to stage significant resistance in authoritarian regimes, where politicians are not held accountable to citizens in the first place? What determines whether citizen resistance will pose a threat to social stability? Answers to these questions will help us understand not only the politics of reform but also the relationship between political institutions and political participation in authoritarian regimes.

This paper aims to address these questions through the case of China. It examines how citizen resistance is possible, and how it is managed in the Chinese political system, by focusing on the most important mode of political participation in China, that is, appeals. Because Chinese local officials are held accountable to higher-level authorities rather than to the public, they are more likely to be responsive to citizens' legitimate demands when they face pressure from higher-level authorities. The political institutions in China make it possible for citizens to be heard by higher-level authorities. Specifically, the founders of socialist China established an appeals system that allows those citizens who encounter injustice to appeal to higher-level authorities.

Over the years, appeals have become the most important mode of political participation in state–society interaction in China. The political space created by the appeals system enables citizens to take both individual and collective action, including acts that teeter on the boundaries set by the state, to achieve some success in defending their interests. Yet, such participation is managed, in that its nature is determined by the political system and government policies, which affect the cost of action and the odds of success. As a result, although reform measures have resulted in a sizable number of victims, their resistance is

[13] Anthony Oberschall, *Social Conflict and Social Movements* (Englewood Cliffs, NJ: Prentice-Hall, 1973), 76.

[14] See Mary Gallagher, "'Reform and Openness': Why China's Economic Reforms Have Delayed Democracy," *World Politics* 54 (April 2002): 338–372.

[15] See, among others, Merle Goldman and Roderick MacFarquar, eds., *The Paradox of Post-Mao Reforms* (Cambridge, MA: Harvard University Press, 1999).

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unlikely to threaten social stability. The operation of the appeals system demonstrates the complex interaction among citizens, local officials, and higher-level authorities in China, indicating both the possibilities and the difficulties that Chinese citizens encounter in protecting their interests.

Political Participation in China

Since the 1990s, reform measures and other socioeconomic changes have threatened the interests of a vast number of people in China, particularly workers and peasants. Citizen resistance is common, as acknowledged by the central government.[16]

As elsewhere, the ways in which Chinese citizens react to encroachment upon their interests or their modes of participation are shaped by the political system. In democracies, political participation involves the selection of government officials or the making of government policies through legalized channels such as regular elections.[17] In Communist systems, political participation is also aimed at influencing policy making but, more significantly, at policy implementation.[18] Unlike citizens of democracies, however, people in Communist countries lack strong legal protection of meaningful political participation.[19] In China, over the years, "the bird of rule by law" has remained in "the cage of the party-state."[20] It is true that legal channels have come to constitute an increasingly important mode of conflict resolution in society.[21] From 1990 to 2000, the number of cases judged in courts increased by about 84 percent.[22] In addition, the large number of arbitration organizations also help in resolving conflicts in society.[23] Yet, the legal system still lacks credibility. A survey of 1,510 households in six cities in 1997 found almost 93 percent reporting that "power supercedes the law."[24] The law is regarded as being especially inefficient in pro-

[16] The Ministry of the CCP Central Organization, *2000–2001 Zhongguo Diaocha Baogao: Xinxingshi Xia Renmin Neibu Maodun Yanjiu* [2000–2001 China Investigation Report: A Study of People's Internal Conflicts in the New Era] (Beijing: Zhongyang Bianyi Chubanshe, 2001), 67–69.

[17] Sidney Verba, Norman Nie, and Jae-on Kim, *Participation and Political Equality: A Seven Nation Comparison* (Chicago, IL: University of Chicago Press, 1978), 51–52.

[18] See, among others, Theodore H. Friedgut, *Political Participation in the USSR* (Princeton, NJ: Princeton University Press, 1979); Tianjian Shi, *Political Participation in Beijing* (Cambridge, MA: Harvard University Press, 1997).

[19] Inga Markovits, "Law and Glasnost: Some Thoughts about the Future of Judicial Review under Socialism," *Law and Society Review* 23 (Spring, 1989): 399–447.

[20] Stanley Lubman, *Bird in a Cage: Legal Reform in China after Mao* (Stanford, CA: Stanford University Press, 1999), 71–101.

[21] Minxin Pei, "Citizens v. Mandarins: Administrative Litigation in China," *The China Quarterly* 152 (December 1997): 832–862.

[22] *China Law Yearbook* (Beijing: Falu Chubanshe, 1991), 933; *China Law Yearbook* (Beijing, Falu Chubanshe, 2001), 1256.

[23] Lubman, *Bird in a Cage*, 216–249.

[24] Chunguang Wang, "1997–1998: Zhongguo Shehui Wending de Diaocha" [1997–1998: An Investigation of China's Social Stability] in Xin Lu, Xueyi Lu, and Tianlun Shan, eds., *Zhongguo Shehui Xingshi Fenxi yu Yuce* [An Analysis and Prediction of China's Social Situation] (Beijing: Shehui Kexue Wenxian Chubanshe, 1998), 121–147.

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tecting the people's interests against state agencies. For example, since the Administrative Litigation Law was enacted in 1990, the number of administrative litigations has stood at less than 2 percent of the total number of lawsuits.[25] "Ten years of practice under the Administrative Litigation Law suggest that protection against administrative abuses through effective judicial review remains an elusive goal."[26]

In democracies, people may also resort to noninstitutionalized action, such as social movements, to pursue their interests. In China, disruptive activities such as protests, strikes, or demonstrations are not easy to pursue. Political control, in the form of required government approval of demonstrations and the constitution's denial of the legality of strikes, significantly curtails disruptive action. The possibility of such activities has further decreased because the government has been rigorous in meting out punishment to organizers of collective action.[27] As a result, Chinese citizens do not favor more dramatic modes of participation.[28]

Despite these constraints, the Chinese people are not passive. Indeed, party–state control in Communist countries does not imply a lack of participation by citizens.[29] Citizen participation has taken various forms, and more important, such participation can be effective.[30] In China, the most frequently used mode of citizen action against state agencies is to approach upper-level state authorities, including those of the Party, the government, the people's congress, and legal departments, either individually or collectively [*shangfang*]. Shi finds that in Beijing in the 1980s, voting, contacting leaders of work units, and appeals were the most important modes of participation.[31] Yet, inasmuch as voting may not be initiated by citizens, and its effectiveness in addressing their specific needs is limited, it is unlikely to serve as the most effective form of participation when citizens face specific problems.[32]

On the other hand, due to the weakening or dismantling of the work unit system, citizens are now more likely to approach higher-level authorities to address their problems. According to a survey of over 1,460 citizens in four cities (Beijing, Haerbin, Wuhan, and Guangzhou), approaching the government ei-

[25] *China Law Yearbook* (Beijing: Falu Chubanshe, 2003), 128–135.

[26] Pitman B. Potter, *The Chinese Legal System: Globalization and Local Legal Culture* (London: Routledge, 2001), 25.

[27] Bernstein and Lu, *Taxation without Representation*, chapter 5; Cai, "The Resistance of Chinese Laid-off Workers," 327–344.

[28] The State Planning Commission, "Woguo Shehui Wending Genzong Diaocha" [A Follow-up Investigation of Social Stability in Our Country], *Guanli Shijie* [Management World] 5 (May, 1999): 169–178.

[29] See, among others, Donna Bahry and Brian Silver, "Soviet Citizen Participation on the Eve of Democratization," *The American Political Science Review* 84 (September 1990): 821–847; Tianjian Shi, *Political Participation in Beijing* (Cambridge, MA: Harvard University Press, 1997).

[30] Shi, *Political Participation in Beijing*, 206–208.

[31] Ibid., 94.

[32] Yang Zhong and Jie Chen, "To Vote or Not to Vote: An Analysis of Peasants' Participation in Chinese Village Elections," *Comparative Political Studies* 35 (August 2002): 686–712.

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TABLE 1

Citizens' Modes of Participation in Four Cities of China (N = 1,461)

Modes of Action	*Frequency (%)*
Appealing to Party and Government Agencies	67.0
Reporting to the Media	44.0
Approaching Legal Departments	30.0
No Action	14.0
Complaining among Themselves	11.0
Protests and Demonstrations	6.1
Strikes	2.9

Source: The State Planning Commission, "A Follow-up Investigation of Social Stability in Our Country," *Guanli Shijie* [Management World], 5 (1999): 169–178.

ther individually (about 53 percent) or collectively (14 percent) is the dominant mode of participation in China (Table 1). Another survey of 745 peasants in Shanxi province in 2002 found that when their rights were encroached upon by state agencies, about 50 percent would approach higher-level leaders, whereas 21 percent would use their personal connections to seek mediation, and only 10 percent would consult the law.[33] Appeals to state agencies take on two forms, letters to the authorities concerned, and individual or collective appeals made in person.[34]

In democracies, "the act of individuals approaching government officials in order to obtain some specific-related benefit from government" is a common mode of participation,[35] although researchers differ in their explanations for the motivation behind it, be it socioeconomic status, perceived need, or political ties.[36] Likewise, citizens in former socialist countries employed this mode of action by lodging complaints with government agencies or officials. Inga Markovits writes:

> Even if socialist governments were to endorse judicial review without qualifications, and even if socialist judges were eager to censor abuses of government power, it is questionable whether socialist citizens would make much use of the right to take their administrations to court. . . . Instead of suing, socialist citizens prefer to raise their objections to administrative decisions through complaints.[37]

[33] Qinghua Shi and Kai Chen, "Xian Jieduan Nongmin Falu Yishi Fenxi" [An Analysis of Peasants' Legal Consciousness in the Current Period], *Zhongguo Nongcun Guancha* [Observations of Rural China] 2 (2002): 67–75; Isabelle Thireau and Hua Linshan, "The Moral Universe of Aggrieved Chinese Workers: Workers' Appeals to Arbitration Committees and Letters and Visits Offices," *The China Journal* 50 (January 2003): 83–106; Zhong and Chen, "To Vote or Not to Vote," 686–712.

[34] Also see Kevin O'Brien and Liangjiang Li, "The Politics of Lodging Complaints in Rural China," *The China Quarterly* 143 (September 1995): 756–783.

[35] Michael W. Hirlinger, "Citizen-Initiated Contacting of Local Government Officials: A Multivariate Explanation," *The Journal of Politics* 54 (May 1992): 553–563.

[36] See, among others, Elaine Sharp, "Citizen-Initiated Contacting of Government Officials and Socioeconomic Status: Determining the Relationship and Accounting for It," *American Political Science Review* 76 (March 1982): 109–115; Alan Zuckerman and Darrell West, "The Political Bases of Citizen Contacting: A Cross-National Analysis," *American Political Science Review* 79 (July 1985): 117–131.

[37] Markovits, "Law and Glasnost," 428.

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For example, about 560,000 complaints involving citizens' personal interests were submitted in Rumania in 1981, 150,000 in Bulgaria in the same year, and about 1.6 million in East Germany in 1987.[38] In the former Soviet Union, "the network of institutions to which a citizen can complain or appeal is extremely large—larger than in a western country—and large numbers of citizens make such appeals and complaints."[39] In the five years between 1971 and 1976, about 2 million letters were sent to the Party's Central Committee in Moscow, and many more were sent to Soviet newspapers.[40]

The political implications of appeals in the Chinese political context are not the same as those of "contacting officials" in democracies. First, in democracies, citizen-initiated contacting is backed by their right to vote officials out of office. In socialist systems like China, there is a lack of citizen influence in the selection of officials, so citizens tend to approach higher-level officials who have authority or, at least, significant influence over those officials who have encroached upon or failed to protect the interests of citizens. Political institutions, therefore, determine which parties citizens choose to contact.

Second, unlike democracies and some former socialist countries, China has an extensive appeals system. The institutional foundation of the system was laid in 1949 when the Central Party Committee established a political secretariat to handle people's letters to Mao and to the Central Party Committee. In 1951, Mao pointed out: "If the number of letters is so large that it is difficult for leaders to handle, there should be specialized organizations to handle such matters. Or at least there should be some staff specialized in this area."[41] In June 1951, Premier Zhou Enlai instructed the Council of Political and Administrative Affairs (which was renamed the State Council in 1954) to issue a directive that required governments at the county level and higher to set up reception offices to handle citizen complaints.

At the central level, the General Office of the Council of Political and Administrative Affairs established a task force to receive people's letters and visits. In 1954, the State Council established a reception office and later a complaints office. Between 1951 and 1954, at least twelve departments of the central government established organizations or task forces to handle people's letters and visits. At the local level, provincial governments began to establish similar task forces and organizations after 1951, and county governments began to take action after 1952.[42] In 1986, the Central Party Committee and the State Council jointly set up a complaints bureau. Over the years, the people's congresses, the discipline inspection committees of the Party, government agencies, courts,

[38] Ibid.

[39] Jerry F. Hough and Merle Fainsod, *How the Soviet Union is Governed* (Cambridge, MA: Harvard University Press, 1980), 316.

[40] Ibid., 298–299.

[41] The Central Complaints Bureau, *Zhongguo Xinfang Xiezhen* [A Record of People's Appeals in China] (Beijing: Zhongguo Gongren Chubanshe, 1998), 6.

[42] Jiecheng Diao, *Renmin Xinfang Shilue* [A Brief History of People's Appeals] (Beijing: Beijing Jingji Xueyuan Chubanshe, 1996), 51–53.

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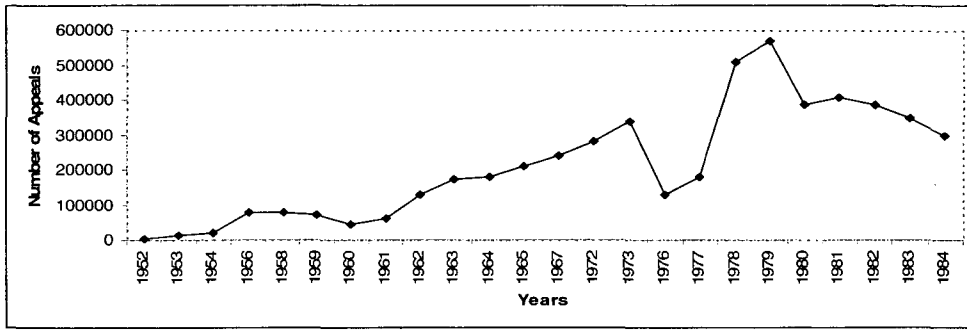
FIGURE 1
Appeals to the General Office of the State Council (1952–1984)



Source: Compiled from Diao Jiecheng, *Renmin Xinfang Shilue* [A Brief History of People's Appeals] (Beijing: Beijing Jingji Xueyuan Chubanshe, 1996).
Note: Other years were excluded because data were not available.

procuracies, and public security bureaus at the county level and higher have also established reception offices or complaints departments. In Henan province, for example, there are over 3,000 complaints organizations.[43]

Third, and perhaps more important, the appeals system in China provides space for collective action. Collective appeals have increased significantly over the years and have become the most important mode of collective action that is permitted—albeit one that is discouraged—by the Chinese government.[44] Collective appeals may also escalate into more dramatic or "boundary-spanning" actions, such as protests or blockades of traffic and government offices.[45] Such actions often place significant pressure on the governments at both the central and local levels. All of these factors determine that the appeals system has become the dominant channel through which Chinese citizens defend their interests against state agencies and other public agencies.

Functions of the Appeals System

Since the 1950s, appeals made by Chinese citizens have reflected important political and socioeconomic changes in China. Figure 1 shows the fluctuations in the number of appeals received by the General Office of the State Council (or the Council of Political and Administrative Affairs) from 1952 to 1984. In the 1950s, appeals rose between 1954 and 1957 mainly because of citizens' problems with employment, livelihood, subsidies, and educational opportunities during the initial stage of the establishment of socialist China. In the 1960s and 1970s, the most important reason for the increase in appeals was the numerous

[43] *Henan Yearbook 2000* (Zhengzhou: Henan Nianjian Chubanshe, 2000), 62.
[44] See The Ministry of the CCP Central Organization, *2000-2001 Zhongguo Diaocha Baogao*, 283.
[45] Kevin O'Brien, "Neither Transgressive nor Contained: Boundary-Spanning Contention in China," *Mobilization: An International Journal* 8 (February 2003): 51–64.

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TABLE 2

Comparison of Appeals between 1990 and 1999

Province	Appeals*/Population in 1990 (per 10,000 Citizens)	Appeals*/Population in 1999 (per 10,000 Citizens)
Zhejiang	54.5	94.6
Shandong	26.8	70.8
Henan	7.1	65.8
Jilin	6.9	154.3
Sichuan	6.3	53.0

Source: Yearbooks of each province.

* Includes both the number of letters and the number of people making appeals.

problems caused by the Cultural Revolution. It was only around 1976 that the number of appeals declined because of the political uncertainties resulting from the deaths of Zhou Enlai, Zhu De, and Mao. After the demise of the "Gang of Four," the number of appeals began to soar and reached its peak in 1979. Between 1979 and 1981, the central authority rehabilitated 1.65 million cadres (public servants and government officials) who underwent investigation during the Cultural Revolution. Between 1982 and 1986, the complaints organizations at the central and provincial levels received 12 million appeals; they addressed the problems of 7 million people. As a result, the number of appeals decreased in the 1980s.[46]

This trend of decreasing appeals was arrested in 1993. In the 1980s, there were relatively fewer political and socioeconomic changes that negatively affected a large number of people. In addition, the work-unit system remained an important mechanism for addressing urban citizens' problems.[47] In rural areas, peasant burdens were still acceptable because they had not yet been subjected to the fiscal reform that would come to place significant pressure on rural governments. Since the early 1990s, however, reform measures introduced in both rural and urban China have generated numerous conflicts. The director of the central complaints bureau acknowledged in 2003 that 80 percent of the appeals were related to problems arising from reform and development.[48]

Systematic data are lacking on the appeals that have been made, but available data may provide some clues. As shown in Table 2, the appeals:population ratio increased significantly in all of the five provinces from which data are available. In Jilin, for example, the number of appeals for every 10,000 people increased from 6.9 in 1990 to 154.3 in 1999. Among all the provinces' records, the *Henan Yearbook* provides the most complete set of data on appeals. As shown

[46] Diao, *Renmin Xinfang Shilue*, 260–261.

[47] Shi, *Political Participation in Beijing*, 46–50.

[48] Yongqian Wang, "Pojie Qunzhong Xinfang Bada Redian" [An Analysis of the Eight Central Issues of People's Complaints], *Banyue Tan* (Biweekly Forum) 21 (November 2003): 23–26.

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TABLE 3

Appeals in Henan Province (1992–1999)

Year	Appeals[1]	Appeals/Population[2]	Collective Appeals	Collective Appeals/Population[2]
1992	240,285	27.1	4,810	0.54
1993	335,444	37.5	5,075	0.57
1994	356,357	39.5	5,875	0.65
1995	439,574	48.3	6,641	0.73
1996	486,199	53.0	8,110	0.88
1997	497,890	53.9	10,551	1.14
1998	681,856	73.2	13,876	1.49
1999	617,247	65.8	14,130	1.51

Source: *Henan Yearbook* (1993–2000).

[1] Includes both the number of letters and the number of people making appeals.

[2] Per 10,000 citizens.

in Table 3, the appeals:population ratio and collective appeals:population ratio increased steadily in the province in the 1990s. In 1998, the complaints system in Henan province received over 681,000 appeals.[49]

Since the late 1990s, the number of appeals received by the central complaints bureau has been between 400,000 and 500,000 annually, and the figure is 100,000 for the complaints bureau of the National People's Congress.[50] Nationwide, complaints departments in Party and government agencies at the county level and higher receive at least 10 million appeals each year.[51] The data presented in Table 4, although incomplete, suggest the importance of the ap-

TABLE 4

Number of Letters and People Making Appeals in Selected Provinces (1999)

Province	Letters	People Making Appeals in Person	Appeals/ Population[2]	Lawsuits	Lawsuits/ Population[2]
Shanghai	206,228	293,319	338.9	226,684	153.8
Heilongjiang	933,000[1]	—	264.0	260,303	68.6
Jilin	410,000[1]	—	154.3	166,161	62.5
Zhejiang	143,281	280,115	94.6	325,701	72.8
Jiangsu	148,000	424,000	79.3	384,295	53.3
Shanxi	52,050	197,699	77.9	110,019	36.4
Shandong	176,260	453,046	70.8	570,492	64.2
Henan	78,542	538,705	65.8	405,076	43.2
Fujian	74,000	130,000	61.5	295,003	89.0
Sichuan	189,722	263,833	53.0	338,208	39.6
Guangxi	65,600	182,900	52.7	159,880	33.9
Anhui	85,301	222,145	49.3	220,978	35.4
Tianjin	8,441	19,661	29.3	117,477	122.5

Source: The 2000 yearbook of each province.

[1] Includes both the number of letters and the number of people making appeals.

[2] Per 10,000 citizens. Other provinces were excluded because their numbers were not reported.

[49] *Henan Yearbook 1999* (Zhengzhou: Henan Nianjian Chubanshe, 1999), 62.

[50] Guosong Guo, "Shenshi Xinfang" [Examining Appeals], *Nanfang Zhoumo*, 13 November 2003.

[51] Wang, "Pojie Qunzhong Xinfang Bada Redian," 23–26.

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peals system as a channel of participation. Although the number of lawsuits in relation to the number of appeals in some provinces is not small, on average, less than 2 percent of lawsuits comprise administrative litigation against state agencies in each province, as noted earlier.

The appeals system is widely used for at least two reasons. For the government, the system serves as a channel of information collection or as a "window" through which the Party and the government can obtain comprehensive and timely information on the social situation and about lower-level cadres.[52] For citizens, it helps address a wide range of issues in the absence of a strong legal system. The director of the central complaints bureau reported in 2003 that the eight issues most frequently complained about were: ownership reform of enterprises, labor, and social security; rural issues; unfair or weak law enforcement; urban housing demolition and allocation; cadres' misconduct; bureaucratic reform; environmental pollution; and allocation of demobilized soldiers and officers.[53]

Appeals and Information Flow

In an authoritarian system that lacks freedom of the press, the importance of the appeals system in information collection should not be underestimated.[54] Indeed, when the complaints bureau system was established in the 1950s, the central government realized its importance in information collection. In 1957, Zhou Enlai suggested that the staff responsible for this system should "collect the opinions of the masses and compile concise reports for submission to the leaders or organizations concerned for reference."[55] Over the years, the complaints departments at both the central and local levels have developed a records system to file people's appeals; this has become the basis for providing information to the authorities concerned.[56]

Yet, this information flow was seriously disrupted during the Cultural Revolution. Although the number of appeals to state authorities was large, many of the appeals were ignored because complaints organizations were often paralyzed. The complaints system was reactivated and strengthened at the end of the Cultural Revolution in 1977 and has, since then, again become an important source of information for higher-level authorities.[57] At the central level, some letters and recorded appeals are directly transferred to the central leaders con-

[52] Also see Kevin O'Brien and Lianjiang Li, "Selective Policy Implementation in Rural China," *Comparative Politics* 31 (January 1999): 167–186.

[53] Rural issues include peasant burdens, mismanagement of village finances, irregularities in village elections, nonagricultural use of farmland, and cadres' misconduct. Wang, "Pojie Qunzhong Xinfang Bada Redian," 23–26.

[54] Thomas Bernstein, "Stalinism, Famine, and Chinese Peasants: Grain Procurement during the Great Leap Forward," *Theory and Society* 13 (May 1984): 339–378.

[55] The Central Complaints Bureau, *Zhongguo Xinfang Xiezhen*, 23.

[56] Diao, *Renmin Xinfang Shilue*, 145–150.

[57] Ibid., 212–215.

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cerned, and others are included in an internal publication entitled *Situation Report* [*Qingkuang Tongbao*], which is submitted to leaders or organizations for their reference. Between 1996 and 1998, the central complaints bureau submitted thousands of cases to central leaders. Their submission accounted for a third of all the cases that were received, read, and commented on by central leaders during the span of three years.[58]

At the local level, complaints bureaus also regularly collect information provided by citizens and transmit it to Party or government organs. In Shandong province in 1999, for example, the complaints bureau system submitted over 13,000 pieces of information or suggestions to Party and government organs, and a significant proportion (40 percent) were accepted for policy-making purposes.[59] In Henan province in 1998, the complaints bureaus at the county level and higher handed in over 12,000 pieces of information to Party committees and governments at different levels. "These reported issues and suggestions received much attention from Party and government leaders. Some of it was used in the decision making."[60] The provincial complaints bureau regularly publishes the *Information Report* [*Xinxi Fanying*] as a source of feedback to the provincial Party committee and the government.

A significant role of the appeals system in China is in aiding the government in its efforts against corruption. As a matter of fact, citizens' appeals and reports have become the dominant channel through which the government obtains information on corrupt agents. It is for this reason that the government has encouraged citizens to report corrupt public workers by granting them material rewards. Between 1988 and 1998, more than 1.47 million reports of corruption among cadres were made by citizens to Party organizations and the legal department. According to the legal department, about 80 percent of its cases were based on citizen reports.[61]

Appeals and Conflict Resolution

Perhaps a more important function of the appeals system lies in addressing citizens' specific problems. In China, power is distributed through the administrative hierarchy; local officials are appointed by their supervisors and are held accountable to them. This administrative hierarchy makes it possible for citizens to appeal to high-level officials who may then rectify the misdeeds of their lower-level counterparts. If citizens' claims and demands are legitimate, the higher-level government may need to respond either symbolically or substan-

[58] Ping He and Manhong Hu, "Ouxin Lixue Wei Renmin" [Working Wholeheartedly for the People], *Minzu yu Fazhi* (Democracy and Law) 9 (1999): 18–20.

[59] *Shandong Yearbook 2000* (Jinan: Shandong Nianjian Chubanshe, 2000), 65.

[60] *Henan Yearbook 1999* (Zhengzhou: Henan Nianjian Chubanshe, 1999), 64.

[61] "Xinfang Jubao Gongzuo de Zhuqudao Zuoyong Jinyibu Jiaqiang" [The Role of Appeals as the Major Channel of Information Has Been Strengthened] (unsigned article), *Zhongguo Jijian Jiancha Bao* [China Discipline Inspection News], 30 August 1997.

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tially in order to maintain its own legitimacy.[62] Indeed, local governments' efforts in dealing with citizens' complaints are taken into account in assessments of their performance. For several reasons, the constraints administered by higher-level authorities create uncertainties for those lower-level officials who ignore or fail to protect the interests of citizens.

First, the appeals system directly involves higher-level leaders. Between 1954 and 1957, major leaders at both the central and local levels began to read citizens' letters and receive visits from citizens. In 1957, it was decreed that each province should have a provincial leader in charge of citizens' letters and appeals. This person would read some of the letters and personally attend to a certain number of citizens, and other leaders would share in this responsibility. It has now become the rule that governments at the county level and higher have a leader in charge of citizens' personal and written appeals.[63] Thus, the appeals system places constraints on local officials, inasmuch as it enables citizens to disclose to higher-level authorities either the failure of local officials in policy implementation or their abuse of power. Higher-level authorities pay attention to people's complaints because they view them as a means of disciplining lower-level cadres:

> By listening to people's complaints and solving their problems, the government not only dispels their discontent but also strengthens its relations with the people. In this way the government can create an image of serving the people wholeheartedly and obtain information on policy implementation at the grassroots level as well as feedback on the performance of cadres. This is thus also a method whereby the masses keep the cadres in check.[64]

On the basis of this rationale, the complaints bureau system regularly selects and rewards model cadres who are credited with helping citizens and maintaining social stability.[65] Believing that intervention by higher-level authorities or leaders is helpful, Chinese citizens do not hesitate to appeal to them. Reportedly, in the late 1980s, letters written to top leaders such as Jiang Zemin and Li Peng totaled 1,500 per week. Major local leaders also receive many letters. Higher-level officials may read and hand over these letters to lower-level governments and demand that they solve the stated problems and report the results. For example, the provincial governor of Shaanxi once read and answered about 10,550 letters within 16 months, from 1995 to 1996. Sometimes, in order to resolve the problems, higher-level authorities may adopt the method of "direct contacting." "As to the issues raised by those who have real problems, we should adopt the method of direct contacting and check whether the

[62] Kevin O'Brien, "Rightful Resistance," *World Politics* 49 (October 1996): 31–55.

[63] The Central Complaints Bureau, *Zhongguo Xinfang Xiezhen*, 38.

[64] Commentator, "Zhengque Duidai Qunzhong Zhao Zhengfu" [To Treat People Making Appeals Correctly], *Gongren Ribao* [Workers' Daily], 2 December 1998.

[65] The Central Complaints Bureau, *Zhongguo Xinfang Xiezhen*, 134.

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problem is solved at the grassroots level."[66] In other words, high-level authorities should follow up on cases until they are solved. In the process, these authorities may send cadres to the locality of the citizens who are making appeals, in order to solve the reported problems.

Second, inasmuch as the appeals system is part of the political hierarchy, it may exert pressure on local officials through administrative channels. According to those who work in high-level complaints bureaus:

> If the local government ignores the decision of the complaints bureaus, we will refer the case to their higher-level counterparts. If the issue remains ignored, we will report it to even higher-level authorities. If that is still not effective, we will report the case to the central complaints bureau and ask them to put the case high on the agenda. The central complaints bureau can assign points to major local cadres, based on the number of appeals from the locality, the number of cases it has resolved, and the outcome of the settlement. If too many points are deducted, the career[s] of local officials may be affected.[67]

The central complaints bureau also compiles a list of the number of appeals and the number of citizens making appeals from each province annually, and discloses to local governments their standings in terms of the number of appeals on the list. In Anhui province in 1999, for example, it was reported that "compared to the previous year, the number of collective appeals to Beijing and the number of participants have declined by 54 percent and 61 percent, respectively. Our standing has dropped from being ranked the tenth to twelfth largest province with appeals this year."[68] A high standing on the list can thus exert pressure on a government. For example, Heilongjiang province was among the highest-ranked provinces in terms of the number of appeals to central authorities. Up to 1999, the number of appeals had been increasing over seven consecutive years. In an effort to alleviate the problem, the province established a telephone network through which citizens could reach the leaders of the government at each level. In 2000, the governments in the province installed 255 telephones with over 600 full-time staff handling telephone calls. In that year, 246,000 telephone calls were received. The governor's office received over 20,180 cases, and over 85 percent of the reported problems were solved. These efforts successfully curbed the increase in number of appeals in the province.[69]

Because local Chinese officials are responsible for local affairs and stability, a large number of appeals from a locality indicate that local officials have failed to fulfill their responsibilities.[70] For this reason, local officials have a strong incentive to prevent people from voicing their grievances to higher-level authori-

[66] Ibid., 748.

[67] Xiaoming Jiang, "Guanjian Yao You Ganqing" [The Fundamental Issue Is Passion], *Xinwen Zhoukan* [China News Weekly], 5 (April 2002), 32–33.

[68] *Anhui Yearbook 2000* (Hefei: Anhui Nianjian Chubanshe, 2000), 30.

[69] *Heilongjiang Yearbook 2001* (Haerbin: Heilongjiang Nianjiang Chubanshe, 2001), 76.

[70] Jiang, "Guanjian Yao You Ganqing," 32–33.

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ties. Higher-level local governments have accordingly adopted several principles for handling appeals: no appeals to the central government, no recurring appeals, and no collective appeals.[71] To achieve the goals set by the higher-level government, lower-level local officials at times use repression to silence the discontented. Yet repression may not be sufficient to lower the number of appeals, especially because most of the demands are legitimate. Local officials can face risks in suppressing citizens who make legitimate appeals. For example, a city Party secretary of Henan province was removed from his post and expelled from the Party mainly because between 1993 and 1997 he ordered the public security department to withhold more than 200 letters of complaint and to seek out those who had appealed in order to punish them.[72]

In another example, in a county in Hebei province, a person reported a corrupt county Party secretary to Beijing but was arrested by police officers sent by the county government, and placed in a house of detention on three occasions. The head of the county complaints bureau told him to stop his appeals: "Because of your appeals, our county has been denied the qualification for an advanced county for five consecutive years. The complaints bureau 'loses face' and the county Party secretary has lost two opportunities for a promotion." Yet, this person did not give up and went again to Beijing. The head of the complaints bureau reported the case to the county Party secretary who said: "You call the Beijing police and tell them that this person is a Falungong practitioner. And he is carrying explosives to Beijing to plot a bombing. He will be punished." After the Beijing police received the telephone call, they immediately searched the city for the complainant and eventually found him. However, the police soon learned the truth and reported the case to the leaders concerned. An angry leader remonstrated: "How can we have such a Party secretary? Investigate the case thoroughly."[73]

The effectiveness of the appeals system encourages citizens to appeal to the government even though their problems can be addressed through the legal system. This reveals the preference of the Party-state for administrative or mediated forms of conflict resolution. For example, in Shanghai in 1998, there were at least 106 cases of collective labor disputes in public firms because of various reform measures. About 80 percent of the cases could have been settled through arbitration or lawsuits, but only 21 percent were resolved in this way. The remaining 38 percent were settled at the grassroots level under the guidance of higher-level authorities, and another 31 percent were resolved directly by higher-level authorities. According to the arbitration department, the most

[71] The Central Complaints Bureau, *Zhongguo Xinfang Xiezhen*; *Henan Yearbook 1999*, 62–63.

[72] Fantan Yu, "Cong Gaowei Dieluo de 'Min Wang'" [A Dismissed "King of the People"], *Nanfang Zhoumo* [Southern Weekend], 25 February 2000.

[73] Changxin Li and Yingmao Yu, "Pinkunxian Henan Sheng Lushi Xian Yuan Xianweishuji Du Baogan Dagao 'Xingxiang Gongcheng' Shilu" [A Record of the Image-Building Activities of Du Baogan, the Former Party Secretary of Lushi County of Henan Province], *Gongren Ribao* [Workers' Daily], 10 August 2001.

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important reason for the preference for arriving at settlements through government intervention was the widely-held belief among workers that "submitting the issue to higher authorities [would] increase the likelihood of a successful and beneficial resolution." It is also true that intervention from higher-level authorities brought about more benefits than did appeals through legal channels.[74]

Collective Appeals

Different modes of appeals vary in terms of effectiveness. The success of appeals depends on the type of demand as well as on citizens' abilities to sway the government. Specifically, appeals made in person are more likely than is letter writing to result in success, perhaps because the latter is more likely to be ignored by officials.[75] It has also been found that collective appeals are more likely to be successful than are individual ones, inasmuch as collective appeals exert more pressure on the government. For example, according to a survey of more than 700 laid-off workers in China in 1999, about 28 percent of those who had taken collective action—a majority of which were collective appeals—reported some success. In contrast, less than 9 percent reported that individual appeals had been helpful.[76]

Compared to individual appeals, collective appeals are more likely to be deemed a threat to social stability, not only because of the larger number of participants but also because of the possibility that a collective appeal could escalate into more dramatic actions, such as protests or demonstrations.[77] It is, therefore, common practice for local governments to forbid collective appeals. Some local governments adopt the so-called one-item veto system, under which the occurrence of collective appeals will result in the punishment of the government officials concerned, regardless of their other achievements.[78] In other places, the provincial government signs responsibility contracts with city governments that outline the latters' responsibilities in reducing and preventing collective appeals to higher-level authorities. City governments then sign similar contracts with their lower-level counterparts.[79] In Hebei province in 1994, for example, the provincial Party committee and the provincial government set a goal of preventing collective appeals to the central and provincial governments at all levels of authority in the province.[80]

[74] Zhenghua Li and Qi Wang, "Shanghai Qiye Maodun Duoshu Mei Zouru Falu Qudao" [Most of the Disputes in Enterprises in Shanghai Were Not Solved Through the Legal Channel], *Neicanxuanbian* [Selected Materials] 1 (1999): 23.

[75] *Henan Yearbook 1999*, 64.

[76] Yongshun Cai, "The Silence of the Dislocated: State and Laid-Off Employees in Reform China" (Ph.D. Dissertation, Stanford University, 2001).

[77] Ibid., chapter 3.

[78] Also see Maria Edin, "State Capacity and Local Agent Control in China: CCP Cadre Management from a Township Perspective," *The China Quarterly* 173 (September 2003): 35–72.

[79] See, among others, *Jilin Yearbook 2001* (Changchun: Jilin Nianjian Chubanshe, 2001), 60.

[80] The Central Complaints Bureau, *Zhongguo Xinfang Xiezhen*, 86–87,

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TABLE 5

Collective Appeals in China (Compared to the Previous Year)

Year	*Increase of Cases (%)*	*Increase of Participants (%)*
1991	87.0	164.00
1992	–	–
1994	26.0	30.8
1995	27.4	31.00
1996	43.2	27.54
1997	–	13.64
1998	42.8	52.4
1999	–	–
2000	36.8	45.5
2001	36.4	38.7

Sources: For 1991–1992, see Li Peilin, ed., *A Report on the Stratification in China in the New Era* (Liaoning: Liaoning Renmin Chubanshe, 1995), 133–188; for 1993–1996, see Lei Wei, "Methods to Solve Peasants' Collective Appeals to the Government," *Lilun Tantao* [Exploration of Theories], 4 (1999): 94–98; for 1996–2001, see Hao Chen, Weiping Huang, and Yongcheng Wang, "A Study on the Interest Groups of China," *Guanli Shijie* [Management World], 4 (2003): 63–74.

Despite these efforts, collective appeals occur frequently in China. As Table 5 shows, both the number of collective appeals and the number of participants have increased significantly. In Henan province in 1999, for example, the complaints bureaus received 14,310 cases of collective appeals involving 431,330 participants.[81] The governor of Jilin province admitted in 2001:

> Collective action has occurred across the province. The number of appeals to high-level governments has increased. The action is often large-scale, intense, and well organized. Blockades at government offices are common occurrences. The impact is severe. The reason for such action is the poor implementation of a social welfare security, the failure to pay the salary of workers, and the unauthorized collection of levies by local governments, among others.[82]

Why do local governments allow such collective action? According to the regulations of the State Council, as long as a collective appeal has no more than five participants (the previous limit was three) and is peaceful in nature, it is permitted.[83] The significance of this regulation is that it creates the possibility of collective action going beyond state regulation. Indeed, as Table 6 suggests, the average number of participants involved in collective appeals ranges from seventeen to thirty-one—far more than the regulated five. These numbers reflect citizens' belief that a larger turnout exerts more pressure on the local government: "A big disturbance leads to a big solution, a small disturbance leads to

[81] *Henan Yearbook 2000* (Zhengzhou: Henan Nianjian Chubanshe, 2000), 62.

[82] Untitled talk by the governor of Jilin province, Hong Hu, accessed on the website of Jilin provincial government at http://www.jl.gov.cn/jlzb/zb200109/zb2001-09-01.htm, 10 April 2001.

[83] The Central Complaints Bureau, *Zhongguo Xinfang Xiezhen*, 468.

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TABLE 6

Collective Appeals in Selected Provinces (1999)

Province	*Collective Appeals*	*Average Number of Participants*
Henan	14,130	31
Shandong	14,042	20
Guangxi	13,039	19
Jiangsu	13,000	24
Jilin	12,206	28
Hebei	10,888	17
Zhejiang	8,670	21
Sichuan	8,133	22
Anhui	7,031	24
Shanxi	3,876	31
Tianjin	704	21

Source: The 2000 yearbook of each province. Other provinces were excluded because data were not reported.

a small solution, and no disturbance leads to no solution."[84] A "big disturbance" often means a large number of participants who are able to create large-scale but peaceful chaos.

Of greater significance, owing to concerns over the legitimacy of or the escalation of confrontations with the people, local governments are not allowed to use force in dealing with them if their activity is peaceful and nonpolitical.[85] In handling collective appeals, there may be under-enforcement of the law. In some democratic countries, "lawbreaking, which is implicit in several forms of protest, tends to be tolerated by the police. Law enforcement is usually considered as less important than peacekeeping."[86] Likewise, in China, silencing the people may be the most important goal for local officials, so concessions and tolerance are sometimes necessary. Local governments are also required to solve the problems raised in appeals. In some places, the regulation is that if collective appeals to higher-level authorities occur owing to negligence on the part of the departments concerned, "these departments must recall protestors within a regulated period of time. They should provide a satisfactory solution to the people within a week and report the outcome to the city government. If the people of a work unit lodge more than two appeals to higher-level authori-

[84] The Chinese translation of this saying is "*xiaonao xiao jiejue, daonao da jiejue, bunao bu jiejue.*" See Qingmin Dong, "Renmin Neibu Tufaxing Qunti Maodun de Tedia Jiqi Chuli Yuanze" [The Characteristics of People's Internal Conflicts and the Principles for Conflict Resolution], *Lilunqianyan* [Theoretical Frontiers] 13 (1999): 7–9.

[85] Daosheng Huan, "Ruhe Yufang Yueji Shangfang" [How to Prevent Appealing to Higher-Level Authorities], *Jiangsu Jijian* [Jiangsu Discipline Inspection] 10 (1999): 16–18.

[86] Donatella della Porta and Herbert Reiter, "The Policing of Protest in Western Democracies" in Donatella della Porta and Herbert Reiter, eds., *Policing Protest: The Control of Mass Demonstrations in Western Democracies* (Minneapolis: University of Minnesota Press, 1998), 1–34.

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ties within a year, the leaders of the work unit must indicate to the government the reasons for such action and the proposed solutions."[87]

The priority that higher-level governments give to social stability explains not only the frequent violations of the five-person limit but also the rationale behind citizens making collective appeals on important occasions, such as National Day:

> Collective action often takes place during the period of important meetings such as the people's congress, the political consultative conference, the party's representatives' conference, and the government's work conference. It also occurs on important occasions or dates of important events. The timing is thus politicized in order to increase social influence and to place more pressure on the party committee or the government.[88]

For example, a city complaints bureau in Shaanxi province experienced a difficult time in 1993 while the central and provincial governments were holding important meetings. In one particular month, about thirty people from one county went to the city government. They blocked the office compound and traffic four times within eight days and threatened to organize a group trip of 100 participants to the central government. In the meantime, 3,000 workers from a military factory who had not been paid for eight months held a demonstration with slogans such as "We want to survive and we want to eat." In addition, workers from another company and some peasants also approached the government. During one very difficult period, the head of the city complaints bureau remained in his office for five consecutive days, although his wife was hospitalized at the time. Together with his staff, he attended to the protestors and proposed solutions to the authorities concerned. Eventually, the protestors' problems were solved, but the head of the complaints bureau became so exhausted that he fainted.[89] To prevent similar occurrences, some local governments have adopted a system called "visiting the people" [*xiafang*] in order to prevent collective action: "To maintain political stability, efforts should be put in at the grassroots level in order to remove the sources of instability."[90] Through this method, the government actively seeks to solve the problems faced by the discontented, thereby preempting collective action.

If the government allows collective appeals that comprise more than five participants, it may also tolerate other forms of peaceful resistance. Indeed, the boundary between collective appeals and more disruptive activities, such as demonstrations and blockades of government offices, is often blurred; it is common for appeals to escalate to more dramatic activities such as protests. Some

[87] Huan, "Ruhe Yufang Yueji Shangfang," 17.

[88] Dong, "Renmin Neibu Tufaxing," 7–9.

[89] The Central Complaints Bureau, *Zhongguo Xinfang Xiezhen*, 111.

[90] Maoguan Li and Baichun Tian, "Bian Qunzhong 'Shangfang' Wei Ganbu 'Xiafang'" [To Change People's Appeals to the Government into Cadres' Visits to People], *Qiushi* [Seeking the Truth] 14 (1999): 43–45.

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participants may thus report disruptive modes of action as appeals.[91] An important characteristic of collective actions in China is that some of them are legal or "in the shadow of law," whereas others are "outside the shadow of law" but "in the shadow of reasonableness [*he qing*]";[92] or they are "neither transgressive nor contained."[93]

Appeals as Managed Participation

"Both the rigid resistance to change and flabby flexibility pose dangers to a polity."[94] Rigidity may undermine a government's ability to manage social development, whereas "flabby flexibility," or "lack of principle," poses an immediate threat of anarchy.[95] This is all the more true for a government that is carrying out reforms affecting a vast number of people. In China, appeals have become an important mode of participation through which citizens can further their interests, but their participation is managed by the state. Specifically, both institutional and policy factors ensure that this mode of participation will not disrupt social stability or threaten reform in China.

Institutional Arrangements and the Limitations of Appeals

Although appeals, including collective appeals, may not be risky in China, they are not necessarily successful either. Both workers and peasants have experienced significant failures using appeals in their struggle against abusive cadres.[96] The effectiveness of this system is undermined by the cost of appeals, especially when the chances of success are slim. Citizen complaints may be addressed if they catch enough attention from higher-level authorities, who then pressure local officials to solve the reported problems. However, letters may be ignored, and citizens may need to address higher-level authorities in person; this requires both time and money. In addition, citizens may need to appeal frequently to higher-level authorities to urge them to put constant pressure on lower-level organizations. This is difficult, largely because citizen complaints may seem insignificant to higher-level authorities. As a result, citizens have to go through a process of appealing to state agencies at different levels, including Party committees, governments and their agencies, the people's congresses, as well as legal departments. Sometimes "they approach all the organs that can be reached and visit all the people that can be helpful. They also send out appealing materials to relevant organizations and people."[97]

[91] Cai, "The Resistance of Chinese Laid-Off Workers," 328.

[92] This term is from Robert Mnookin and Lewis Kornhauser, "Bargaining in the Shadow of the Law: The Case of Divorce," *Yale Law Journal* 88 (April, 1979): 950.

[93] O'Brien, "Neither Transgressive nor Contained," 51–64.

[94] Frederick C. Barghoorn, *Politics in Russia*, 2nd ed. (Boston, MA: Little, Brown and Company, 1972), 308.

[95] Ibid.

[96] Yanfang Ren, *Minyuan* [People's Complaints] (Bejing: Zhongguo Wenlian Chubanshe, 1999).

[97] Cuixia Zhu, "Beijing Dongzhuang: Jijiang Xiaoshi de Shangfangcun" [Dongzhuang of Beijing: A Disappearing Village of Complainants], *Xinwen Zhoukan* [News Weekly], 5 (April 2002), 22–27.

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Not all citizens are willing or able to spend time and money in making appeals. The number of letters and appeals received by governments at different levels indicates the need of citizens to save time and expense. Because higher-level authorities, such as provincial and central governments, are located far away from most citizens' homes, these governments tend to receive proportionally fewer appeals in person but more in letters. For example, in Henan province in 1998, among the letters addressed to the governments, the provincial government received over 42 percent, while city and county governments received about 33 percent and 24 percent, respectively. Yet, in the case of appeals in person, the provincial government received less than 9 percent of the total, while city and county governments received 33 percent and 58 percent, respectively. This scenario is all the more true for collective appeals, which are often more costly. Only 3.2 percent of collective appeals were directed at the provincial government, whereas city and county governments received about 33 percent and 64 percent, respectively.[98]

Appeals to higher-level authorities are costly also because of institutional arrangements. Perhaps because of the large number of complainants, complaints bureaus require those making appeals to go through a procedure. For example, when citizens lodge complaints with the complaints bureaus of the central authorities, they must obtain a form and fill in the required information. In some complaints bureaus, the form is only issued between 8:00 and 9:30 in the morning and 1:00 and 2:30 in the afternoon.[99] Individual complainants can only apply for a form once a month. Provincial complaints bureaus have adopted a similar screening procedure.[100]

Higher-level complaints bureaus evaluate cases on the basis of their importance (that is, the degree of injustice and the impact) and respond accordingly. One mode of response is direct intervention. When a case is deemed important, the complaints agency may report it to the Party committee or the government at its level and urge the latter to establish a task force to address the reported problems or to intervene in other ways. The agency may also send its own staff to the locality to address the problems. This approach is used infrequently because of the high cost involved. Many more cases are seen as less important and are referred to local governments or their agencies for resolution. In doing this, the complaints agency may require lower-level officials to report whether and how they have addressed the problems. Or the complaints agency may produce a document or a notice for the complainant, who then uses it to urge local agencies to solve his or her problems. Such notices, however, may be ignored by local state agencies. As a result, those making appeals can be trapped in a loop: from the local government to higher-level authorities, and back to the local government.[101]

[98] *Henan Yearbook 1999*, 64.

[99] Zhu, "Beijing Dongzhuang," 26.

[100] Ji Chen, "Fengyu Shinian Susonglu" [A Ten-year Difficult Litigation], *Falu yu Shenghuo* [Law and Life] 1 (1998): 22–24.

[101] Juan Lu, "Shangfang, Bieyang de Ziwei" [Appeals: A Unique Experience], *Falu yu Shenghuo* (Law and Life) 8 (2002): 4–8.

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Complainants' problems may fail to be addressed when state agencies lack either the financial resources or the political power to do so. Officials at one complaints bureau admitted in an interview that they sometimes hid from those making appeals when it was beyond their capacity to address the problems raised. Indeed, it is not rare for state agencies to evade the responsibility of solving problems raised in appeals. Some agencies have used the strategy of "passing the football," where one agency may send the "ball of problems" to other agencies, which then repeat the process. This also happens at the central level. For example, people making appeals to the National People's Congress may be urged to appeal to the central complaints bureau instead. Under these circumstances, both the cost and the difficulty of making appeals increase.[102] As a result, making appeals may impoverish some citizens. A random survey of 110 people making appeals in Beijing found that nearly 49 percent slept on the street because they could not afford to stay in inns; about 39 percent made a living by collecting garbage, 32 percent by begging, and the rest by taking temporary jobs or using money from their families. The longest time spent on appeals by those surveyed was forty-three years.[103]

Government Policies and the Nature of Political Participation

Although it allows its citizens to make appeals, the Chinese government also prevents them from taking action that may threaten its authority. The government is tolerant of nonpolitical requests, but not of political ones. Most appeals focus on specific problems of a nonpolitical nature. In terms of modes of action, large, well-organized collective action is discouraged by the government. As noted earlier, to prevent citizens from abusing the appeals system, the government limits the number of participants in a collective appeal to five. Although citizens are more likely to achieve success when their appeals involve a larger number of participants, the central government and its agencies are ambivalent toward collective appeals. Collective appeals, if encouraged, could induce more appeals or develop into other forms of organized action that could threaten social stability. Hence, collective appeals that are directed at the central government are discouraged.[104]

As far as local governments are concerned, to protect their image, they employ various strategies to prevent their citizens from making appeals in Beijing or at the provincial capital. They may send staff and vehicles to higher-level complaints bureaus in order to bring back their locals. It has been reported that the "two-queue" phenomenon is common outside complaints bureaus of the central Party or government organs. One queue consists of citizens who want to make appeals, and the other is made up of cadres sent by local governments to deter them.[105] In Heilongjiang province in 1999, for example, it was reported:

[102] Yihe Jiang and Yaoguo Tang, "Xinfang Beilun" [The Paradox of Appeals], *Xinwen Zhoukan* [News Weekly] 5 (April 2002): 30–33.

[103] Zhu, "Beijing Dongzhuang," 23.

[104] Jiang and Tang, "Xinfang Beilun," 30–33.

[105] Ibid., 31.

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> Those who rallied in front of the offices of the provincial Party committee and the provincial government were persuaded to leave within 24 hours. . . . We also sent work teams to Beijing to help maintain the stability there. In 1999, during the National People's Congress, the Political Consultative Conference, the National Day, and the struggle against the "evil cult" of Falungong, the provincial complaints bureau sent five work groups to Beijing. We brought back 578 Falungong practitioners and also succeeded in persuading participants of seven collective appeals and 205 individuals making appeals to leave Beijing.[106]

The negative attitude of some local governments toward collective appeals is also reflected in propaganda, through the posting of slogans such as "Strike hard against unreasonable appeals" or "Strike hard against direct appeals to higher-level authorities" (*yueji shangfang*).[107] Local governments may also set up so-called detention/repatriation stations to detain those making appeals who are believed to have crossed the boundaries set by the government and send them back to their hometowns. In 1999, for instance, the provincial complaints bureau of Heilongjiang province detained and repatriated 118 people "who caused trouble intentionally." Each person was detained for about seventeen days on average; twenty-seven of them were removed by their local governments, twenty were let off after being educated, and seventy-one were sent back.[108] Hence, an important implication of the way appeals are managed is that they, especially collective appeals, tend to be confined within localities.

Another important method used by local governments to prevent collective appeals is to impose severe punishment on leaders or organizers. Some organizers and leaders have been sued, arrested, and imprisoned under the charge of "attacking state organs" when they made collective appeals to higher-level authorities.[109]

For example, after a fire claimed 309 lives in Luoyang in Henan province in 2001, thirty-five family members of the victims went to Beijing to appeal unsatisfactory compensation. They approached a number of central agencies, including the Supreme Court, the Supreme Procuracy, the central complaints bureau, the National Discipline Inspection Committee, and the state Political-Legal Commission. During their ninth appeal in 2001, the participants were forcibly brought back from Beijing by more than 100 agents of the local government. The local government also forced them to promise to forgo appeals, and a woman leader was imprisoned for "disrupting social order."[110] In another example in Hebei province, some peasants appealed in vain to the township and county govern-

[106] *Heilongjiang Yearbook 2000*, 93.

[107] Xin Li, "Shangfang Shi Shenme Zui" [What Crime Do Appeals Constitute?], *Jiancha Ribao* [Inspection Daily], 26 June 2002.

[108] *Heilongjiang Yearbook 2000*, 93.

[109] Dongli Zhang, "Tamen Jiujing Cuozai Nali?" [What Was Wrong with Them?], *Fazhi yu Wenming* [Law and Civilization] 11 (2001): 4–7.

[110] Ibid., 6.

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ments on numerous occasions for the rights to their village land. They then appealed to the city Party committee and the government, but the two village cadres were arrested under the charge of "collectively attacking state organs."[111]

Given government policy toward organizers or leaders, collective actions, especially disruptive ones, are difficult because they pose great risks to the leaders. The leaders of collective appeals often have a strong incentive to keep the action peaceful and to refrain from raising political demands in order to avoid punishment from the government. Violent confrontation is often due to emotional factors that are beyond the expectation and control of the organizers or leaders. In a typical situation, collective appeals escalate into more disruptive action when the targeted government agency refuses to receive or meet the people making appeals or their representatives. Under the instigation of some participants, often not the leaders, frustrated participants may take action that has not been anticipated by the leaders.[112]

The government's repressive policy toward leaders of collective action also prevents aggrieved citizens from forming organizations that have the capacity to mount resistance. Given the lesson gleaned from Solidarity in Poland, it is not difficult to understand why the Chinese government repressed the well-organized Falungong.[113] Organizations are essential to powerful collective action, such as social movements. Such organizations, however, can neither emerge nor sustain themselves without devoted individuals or leaders. The denial of the legality of independent organizations serves as a crucial check on large-scale collective action in China. As a result, without an organizational basis, most collective action in China, including collective appeals, is short-lived.

The Significance of the Appeals System

Despite the limitations of the appeals system, it plays several important roles in adding flexibility to the authoritarian regime in China. First, the system helps maintain social stability by preventing resentful citizens from resorting to extreme means, because it can partly accommodate their needs. Appeals also create significant uncertainties for misbehaving local officials. Some Chinese scholars point out: "Although the chance for complainants to receive direct intervention from high-ranking officials is small, there is still a possibility. It is this possibility that functions as a safety valve for social stability."[114] Others suggest:

[111] Yan Ye and Chunlin Yuan, "Tamen Shi Ruhe Chongji Guojia Jiguan de" [How They Attacked State Agencies], *Zhongguo Qingnian Bao*, August 31, 2001.

[112] Cai, "The Silence of the Dislocated," chapter 6.

[113] Central leaders declared that "the Falungong sect poses as much of a threat to the Communist Party as the Solidarity movement did to the Communists in Poland in the 1980s." Danny Schechter, *Falun Gong's Challenge to China* (New York: Akaschic Books, 2001), 77; James Tong, "An Organizational Analysis of Falungong: Structure, Communications, Financing," *The China Quarterly* 171 (September 2002): 636–660.

[114] Guo, "Shenshi Xinfang."

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"Appeals based on the wish of receiving support from higher-level authorities will not threaten the political system, although they sometimes cause disruptions at the local level. Such action directed merely at misbehaving local officials may enhance the legitimacy of higher-level officials if proper intervention is made."[115] Local officials' efforts at preventing appeals suggest that they cannot afford to ignore the negative impact that these appeals can have on their careers. Their attempts to stop citizen appeals may fail because it is beyond their ability to constantly monitor their local people. It is for this reason that appeals to higher-level authorities continue in large numbers, as noted earlier.

Second, appeals not only help to reduce information asymmetries among governments at different levels, they also become a driving force for more institutionalized state–society interaction in China by limiting the power of the local state. The violation of citizen rights by state or public actors is a fundamental reason for the numerous appeals to higher-level authorities.[116] The director of the central complaints bureau reported in 2003 that more than 80 percent of the appeals received were reasonable. Furthermore, 80 percent of the reported problems could be solved through the efforts of the Party committees and governments at different levels, and 80 percent of the reported problems should have been and could have been solved at the grassroots level.[117] Hence, the numerous appeals cause the central authority to realize that state actors must respect citizen rights if they are to avoid persistent conflicts. This is because even the weak can cause disruptions when they engage in peaceful but persistent and widespread resistance that places cumulative pressure on the political system.[118] Such pressure can force the government to adjust its policies. For example, the fee-to-tax reform in rural China is an attempt by the central government to resolve a source of conflict after peasants persistently put up resistance, including collective action.[119]

Third, appeals also contribute to political development in China by prompting the government to strengthen the legal institutions. It is true that an increasing number of Chinese citizens have realized that lawsuits may be more effective than appeals because they will at least receive a response once a lawsuit is filed.[120] Yet, the legal institutions in China have been plagued by a number of problems, such as a lack of judicial independence, incompetent legal agents, and corruption. Indeed, the legal system has become a source of complaints

[115] Xing Ying, *Dahe Yimin Shangfang de Gushi* [A Story of Migrants' Appeals in Dahe] (Beijing: Sanlian Shudian, 2001), 333.

[116] Lu, "Shangfang, Bieyang de Ziwei," 4–8.

[117] Wang, "Pojie Qunzhong Xinfang Bada Redian," 23–26.

[118] James Scott, *The Weapons of the Weak* (New Haven, CT: Yale University Press, 1985), xvii.

[119] Jiquan Xiang, "Nongcun Shuifei Gaige yu Xiangcun Zhili de Biange" [Tax Reform in the Countryside and Change of Rural Governance], *Zhongguo Shehui Kexue Pinglun* [Chinese Social Sciences Review] 1 (2003): 26–39.

[120] Xiangang Zeng, "Mingaoguan Yinchu de Huati" [Issues Arising from Citizens' Suing the Government], *Fazhi Ribao* [Legal News Daily], 10 January 2002.

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among Chinese citizens. Under these circumstances, the appeals system remains an important corrective device to the ineffective legal system. For instance, incomplete statistics regarding appeals to the central Discipline Inspection Commission suggest that 40 percent of the appeals were directed at legal departments and 33 percent at government agencies. When citizens encounter injustice in the legal system, appeals may be their only recourse.[121]

Given the role of appeals, the central authority has tried to strengthen the system over the years, especially during the reform period. In 1995, the State Council issued a directive that reinforced citizens' right to appeal. On the basis of this directive, each provincial-level government has made or modified regulations to specify the rights and obligations of the government and its citizens.[122] In 1999, the central government decided to promote the administrative ranking of the central complaints bureau. Central leaders have repeatedly instructed local authorities to attend to the needs of the people. In 2003, for example, such instructions led a number of central government agencies to urge local authorities to reduce recurring appeals and collective appeals by addressing the reported problems.[123]

Conclusion

Chinese society is experiencing significant socioeconomic and political changes resulting from the introduction of numerous reform measures in both rural and urban areas. Not surprisingly, these changes have ignored or encroached upon the interests of a large number of people. Despite its authoritarian political system, China possesses mechanisms that oblige local state agents to address the needs of citizens.[124] More specifically, in addition to other modes of political participation, such as elections and lawsuits, the Chinese government established the appeals system right after the founding of socialist China. This system allows citizens to approach higher-level authorities to report problems that have not been addressed by local authorities. Because the legal system is weak, appeals have been the most important mode of political participation in China. Following the Cultural Revolution, appeals became the dominant channel through which millions of people who had suffered injustice during the Cultural Revolution had their wrongs made right.

Similarly, appeals play a significant role in mediating social conflicts. The effectiveness of the system depends on the willingness of higher-level authorities to place pressure on abusive or irresponsible local agents. Because higher-

[121] Kui Hui and Shu Jiang, "2003 Zhongguo Zaoyu Xinfang Hongfeng, Xin Lingdaoren Mailin Feichang Kaoyan" [Numerous Appeals Became a Tough Challenge to New Leaders in China in 2003], *Liaowang Dongfang* [Eastern Perspective] 4 (December 2003): 30–45.

[122] Diao, *Renmin Xinfang Shilue*, 348.

[123] Hui and Jiang, "2003 Zhongguo Zaoyu Xinfang Hongfeng," 30–45.

[124] Also see Jean Oi, "Realms of Freedom in Post-Mao China" in William Kirby, ed., *Realms of Freedom in Modern China* (Stanford, CA: Stanford University Press, 2003), 264–284.

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level authorities are concerned about legitimacy and social stability, and because the appeals system provides space for collective action that is often deemed disruptive, authorities may have an incentive to intervene when they believe that a failure to do so could ruin their legitimacy or lead to more serious social disruptions. Chinese citizens understand the variations in effectiveness of different modes of appeals. Because collective action is more likely to catch the attention of state authorities, Chinese citizens have engaged in collective appeals that have at times escalated into boundary-spanning collective action, including protests, traffic blockades, and demonstrations.

Yet, several factors undermine the effectiveness of appeals. Appeals to higher-level authorities, especially at the central and provincial levels, require energy, time, and money. Given the large number of people making appeals and the limited power of agencies to handle these appeals, the success of appeals is often unpredictable. And local officials have not remained passive when faced with citizens making appeals; instead, they have adopted various measures to increase the costs or risks involved in appeals. Their policy toward organizers of collective appeals is particularly harsh. Thus, institutional and policy factors ensure that citizen appeals, including collective action, neither pose a serious threat to social stability nor thwart reform.

Despite its weaknesses, the significance of the appeals system lies not only in the fact that it creates significant uncertainties for local officials; it also serves as a driving force for the government to adjust reform policies to accommodate the needs of the people. Because all the major issues that may cause problems for citizens are reflected in appeals, they serve as feedback on government policies, including reform measures. Moreover, the persistently large number of appeals and boundary-spanning collective action has made the central party-state realize the importance of institutionalizing state–society relations. It is against this backdrop that more efforts are being made by the government to strengthen the legal institutions in China in order to meet the challenges of a changing social context.

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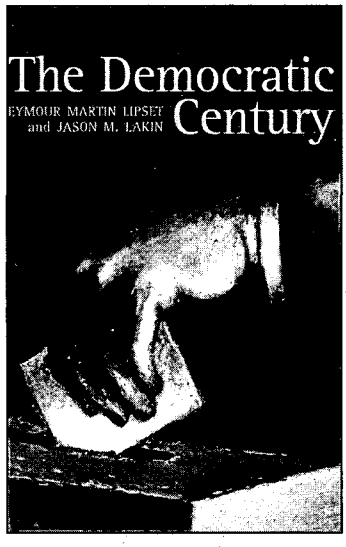

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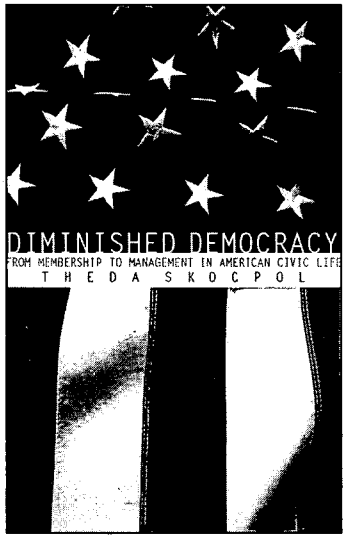

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Databases, Felons, and Voting: Bias and Partisanship of the Florida Felons List in the 2000 Elections

GUY STUART

Over the past three decades, U.S. incarceration rates have risen dramatically, with a disproportionate impact on African Americans and Latinos. Forty-eight states and the District of Columbia have felon disfranchisement laws. As a result, 2 percent of the voting age population is disfranchised and about 37 percent of those disfranchised are African American. Overall, about 6.5 percent of voting-age African Americans are disfranchised. This level of disfranchisement may have had a significant impact on electoral outcomes in a number of states over the past twenty years, largely because those disfranchised would more likely have voted for the Democratic Party candidate.[1] These estimates do not take into account the problems associated with enforcing these laws. This paper analyzes the State of Florida's attempt to enforce its own constitutional requirement to disfranchise all felons, whether incarcerated or not, in the 2000 elections.[2] It shows that this attempt was plagued by error, that the errors were probably biased against registered African American voters, and that the errors resulted in a partisan implementation process at the county level that may have ended up, ironically, favoring the Democratic Party. These findings suggest that future attempts by other states to enforce their own disfranchisement laws more vigorously will result in more partisanship over the imple-

[1] Jeff Manza, Christopher Uggen, and Marcus Britton, "The Truly Disfranchised: Felon Voting Rights and American Politics," Working Paper, Northwestern University, 2001.

[2] Florida Constitution, Article VI, Section 4(a).

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mentation of the electoral laws themselves, unless these states are able to perfect their implementation processes. In the event that they are able to do so, the Democratic Party will be faced with the prospect that 6.5 percent of one of its core voting blocks, African Americans, will be systematically excluded from voting.

I begin by providing a national and historical context for the events surrounding the attempt at implementing Florida's disfranchisement law. I then trace the brief history of Florida's decision to implement the list maintenance procedures it had in place in 2000. And finally, I analyze the 1999 and 2000 exclusion lists and the April 2001 Central Voter File (CVF) to explain the extent of the errors in the felons list, the source of their biases, and the partisanship surrounding their use.

Felon Disfranchisement in the United States

Almost since the founding of the United States, felon disfranchisement has been a common element in the constitutions of individual states. Article 1, Section 2 of the U.S. Constitution gives to the states the authority to define who can vote in federal elections, and as a result, felon disfranchisement has been a common element in federal elections. This policy has been reinforced by U.S. Supreme Court interpretations of the Fourteenth Amendment and by federal legislation. As a result, felon disfranchisement enjoys a judicially and politically strong place in the electoral practices of this country.

None of the thirteen founding states had felon disfranchisement laws in their constitutions. But the fourteenth state to join the Union, Kentucky, included a provision to disfranchise felons in its 1792 constitution.[3] Kentucky's lead was followed by Vermont in 1793, whose constitution included a provision to disfranchise those involved in election bribery in that year, and by Tennessee in 1796, whose constitution included a disfranchisement provision. Of the twenty-one states founded in the nineteenth century prior to the passage of the Fourteenth Amendment, eighteen included a provision to disfranchise felons in their founding constitutions. Of the other three, Maine never had and still does not have a provision to disfranchise felons, Arkansas adopted one in its 1868 constitution, and Michigan adopted one in its 1963 constitution, while acknowledging that this was simply the formalization of a long-held practice of disfranchising imprisoned felons because they were not provided with absentee ballots. In addition, eight of the founding states changed their constitutions to disfranchise felons prior to the passage of the Fourteenth Amendment.[4]

In these pre–Civil War constitutions, many of the states also disfranchised African Americans and other minorities in the same constitutions in which they

[3] Alex Keyssar, *The Right to Vote: The Contested History of Democracy in the United States* (New York: Basic Books, 2000), 359.

[4] Ibid., 390–396.

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disfranchised felons. All eighteen of the states that disfranchised felons in their constitutions also restricted the franchise to white men, although Ohio granted the franchise to African Americans in its 1850 constitution. In other words, the felon disfranchisement constitutional provisions were not a means to another end—the disfranchisement of African Americans. This could not be said of many of the post-Reconstruction constitutional provisions of southern states that disfranchised felons. There is ample evidence that the constitutional conventions intentionally crafted felon disfranchisement laws in such a way as to target African Americans.[5] The intent of the constitutional conventions was to circumvent the equal protection clause of the Fourteenth Amendment and the explicit proscription against discrimination on the basis of race found in the Fifteenth Amendment.

Ironically, the Fourteenth Amendment has afforded felon disfranchisement laws constitutional protection because of the way Section 2 of the amendment is worded, and the Supreme Court's interpretation of that wording. Section 2 reduces a state's representation in Congress (and the electoral college) in proportion to the number of people it has disfranchised, "except for participation in rebellion, or other crime." The section uses the stick of lesser representation at the federal level to force states not to discriminate, without actually prohibiting discrimination. But the exception clause has often been interpreted by the courts as an endorsement of felon disfranchisement. The irony is that many lawsuits brought against felon disfranchisement laws have cited Section 1 of the Fourteenth Amendment, its equal protection clause, as grounds for declaring such laws unconstitutional. For example, in *Richardson v. Ramirez* (1974) the Supreme Court cited the fact that twenty-nine states had felon disfranchisement laws in place at the time of the passage of the amendment, and that the 1867 Reconstruction Act also included explicit references to felon disfranchisement. This, according to the majority opinion, showed that the language of Section 2 of the Fourteenth Amendment reflected the generally accepted practice of felon disfranchisment. In dissent, Justice Thurgood Marshall argued that the language of Section 2 was the result of political expediency, not of a deliberate policy decision to provide felon disfranchisement laws constitutional protection. He cited John Mabry Mathews, who noted that the language of Section 2 was the product of a decision by the Republican Party not to campaign on the issue of African American suffrage in the upcoming elections. Section 2 is devoid of any mention of race, but was still intended to guarantee suffrage to African Americans.[6]

[5] Andrew Shapiro, "Challenging Criminal Disenfranchisement Under the Voting Rights Act: A New Strategy," *The Yale Law Journal* 103 (1993): 537–544.

[6] *Richardson, County Clerk and Registrar of Voters of Mendocino County v. Ramirez et al.*, U.S. S. Ct. 418 (1974); John Mabry Mathews, *Legislative and Judicial History of the Fifteenth Amendment* (New York: Da Capo Press, 1971 [1909]), 14–15.

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Felon disfranchisement has also received additional protection in legislation designed to extend voting rights. The House and Senate committee reports on the bill that was to become the Voting Rights Act of 1965 explicitly excluded felon disfranchisement laws from the act's aegis. This congressional intent was cited by the court in *Baker v. Pataki* (1996), in which the plaintiffs argued that the State of New York was not only in violation of the Fourteenth and Fifteenth Amendments in its disfranchisement laws but was also in violation of Section 1793 of the Voting Rights Act as amended in 1982.[7] The 1982 amendment was, potentially, an extremely powerful tool against felon disfranchisement laws because Section 3 of the amending law specified that election laws that had a discriminatory *result*, not intent, were illegal. Half of the judges in the case sided with the argument that the results test does not apply to felon disfranchisement laws because "not only has Congress failed ever to make a legislative finding that felon disenfranchisement is a pretext or proxy for racial discrimination; it has effectively determined that it is not."[8]

Finally, the 1993 National Voting Rights Act, commonly known as the Motor Voter Law, while removing many barriers to voter registration, explicitly endorsed felon disfranchisement. The act established voter registration roll maintenance standards stipulating the conditions under which a voter could or could not be taken off the voter rolls. Unless the conditions for removal were met, a voter could not be removed from the rolls unless the voter herself requested it or "as provided by State law, by reason of criminal conviction or mental incapacity."[9] In addition, it specified a procedure by which the U.S. attorney general should inform state officials of the name, age, address, date of conviction, and description of the offence of federally convicted felons.[10] Once again, Congress provided for the exclusion of felons from the franchise in an act designed to extend voter participation.

Thus, as a result of both the history of state and federal constitution making in the nineteenth century and contemporary legislative and judicial acts, felon disfranchisement laws are ubiquitous in the United States. As of November 2000, forty-seven states and the District of Columbia disfranchised incarcerated felons; Maine, Vermont, and Massachusetts did not. In the 2000 elections, Massachusetts voters voted by referendum to disfranchise incarcerated felons. Of the forty-eight jurisdictions that disfranchised incarcerated felons in November 2000, sixteen disfranchised only those who were incarcerated, four also disfranchised felons who were on parole, fifteen also disfranchised those who were on probation or parole, and, finally, thirteen states disfranchised ex-felons, as well

[7] *Baker et al. v. George E. Pataki, Governor of the State of New York, and Philip Coombe, Acting Commissioner of the New York State Department of Correctional Services*, 85 F.3d 919, United States Court of Appeals for the Second Circuit; 30 May 1996.

[8] Ibid.

[9] *National Voting Rights Act of 1993*, Public Law 103-31, Section 8, (a)(3)(B).

[10] Ibid., Section 8(g).

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TABLE 1

Current Felon Disfranchisement Laws
States and District of Columbia, as of November 2000

Laws	*Number*
No Disfranchisement*	3
Incarcerated Only	16
Incarcerated and Parole	4
Incarcerated, Parole and Probation	15
Incarcerated, Parole, Probation and More	13
Total	51

* Massachusetts voted in November 2000 to prohibit incarcerated felons from voting. Previous to this vote, there was no felon disfranchisement in this state.
Source: Fellner and Mauer (1998), and updated by author.

as those on probation, on parole, or incarcerated (Table 1). One of these thirteen, Delaware, disfranchised ex-felons for five years after the end of their term, while the others did so for life or until their civil rights were restored.[11]

As noted above, incarceration rates have risen dramatically since the early 1970s as a result of both changes in sentencing policies that emphasize longer sentences, and the "war on drugs."[12] Between 1935 and 1970, about 106 out of 100,000 Americans were incarcerated in federal or state prison; by 1980, the rate was 139 per 100,000; and in 2000, it was 478 per 100,000. The increases have not been solely confined to those incarcerated; the jail population and the number on probation and parole have also increased, from 662 per 100,000 in 1980 to 1,878 in 2000.[13] Furthermore, the high incarceration rates disproportionately affect African Americans and Latinos. Data on Latinos are not easy to come by in criminal justice statistics, but a Bureau of Justice Statistics report shows that the incarceration rate for African Americans was four times the national rate in 1997 and rose by 63 percent between 1990 and 1997. The Latino rate was just under twice the national average and rose by 35 percent between 1990 and 1997, matching the white growth rate.[14]

The disproportionate increase in incarceration rates for African Americans translates directly into a far higher disfranchisement rate due to felony convic-

[11] Jamie Fellner and Marc Mauer, "Losing the Vote: The Impact of Felony Disenfranchisement Laws in the United States," The Sentencing Project and Human Rights Watch, October 1998; Patricia Allard and Marc Mauer, "Regaining the Vote: An Assessment of Activity Relating to Felon Disenfranchisement Laws," The Sentencing Project, Human Rights Watch, 2000, accessed at http://www.sentencingproject.org, 6 August 2001.

[12] Doris Mackenzie, "Sentencing and Corrections in the 21st Century: Setting the Stage for the Future," report submitted to the National Institute of Justice, U.S. Department of Justice, 2000, accessed at http://www.bsos.umd.edu/ccjs/corrections/Doc/sc21c.htm 7 September 2001.

[13] Bureau of Justice Statistics, "Key Facts at a Glance: Correctional Populations" and "Key Facts at a Glance: Incarceration Rate Trends," accessed at http://www.ojp.usdoj.gov/bjs/keytabs.htm, September 2001.

[14] Bureau of Justice Statistics, "Correctional Populations in the United States, 1997," Chapter 1, NCJ 177613, Table 1.11.

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tion. As noted above, African Americans constitute about 37 percent of the disfranchised population, and the disfranchisement rate for African Americans is about 6.5 percent (about 13 percent for African American men). But it should be noted that the white population is also affected by the combination of felon disfranchisement and high incarceration rates. White incarceration rates in the United States are more than twice the European Union average rate; seven of the fifteen countries in the Union allow felons to vote while in prison, and none have a ban on prisoners voting once they are released.[15]

Florida's Central Voter File and Exclusion Lists

Florida's population in 2000 was almost 16 million. At the time of the 2000 elections, there were about 8.75 million people registered to vote.[16] Of these, 6,138,765 voted in the 2000 elections for president, resulting in a 70.1 percent turnout rate. The incarceration rate in Florida was 462 per 100,000 residents in 2000, very close to the national average.[17] Florida's disfranchisement law prohibits anyone convicted of a felony from voting, even after they have served the term of their sentence. They can petition to have their civil rights restored through an application to the Board of Executive Clemency, which "consists of the Governor and his Cabinet."[18] Jeff Manza et al. estimate that in 1998, 709,816 Floridians were disfranchised due to felony convictions, constituting 6.24 percent of the voting age population at the time. They also estimate that 210,646 African Americans were disfranchised due to felony convictions, constituting 13.77 percent of voting-age African Americans.[19]

Florida enacted its own voter registration act in 1995, in compliance with federal law. It both reduced barriers to registering to vote and set uniform, statewide registration and list maintenance procedures. Despite this standardization, the law retained the decentralized structure of the previous system, in which each county was responsible for implementing the list maintenance procedures. Each county supervisor was responsible for receiving and processing information from the state Department of Health, the clerks of the county courts, the Division of Elections (DOE), other county supervisors, and the postal service for deaths, state felons, federal felons, and duplicate registrants. This was supposed to be an ongoing process, during which the county supervisors received information on a monthly basis. These procedures were in addition to the regular receipt of data from the diverse set of offices and agencies that could now take voter registration applications.

[15] Prison Reform Trust, "Barred From Voting," 2001, accessed at www.prisonreformtrust.org.uk/file_25_5_2001.html, 6 August 2001.

[16] Florida Department of State, Division of Elections, "Voter Registration and Turnout," accessed at http://election.dos.state.fl.us/elections/resultsarchive/, August 2001.

[17] Allen Beck and Paige Harrison, "Prisoners in 2000," Bureau of Justice Statistics Bulletin, NCJ 188207, August 2001.

[18] U.S. Department of Justice, "Restoring Your Right to Vote, Florida," 2000, accessed at www.usdoj.gov/crt/restorevote/Florida.pdf, 17 June 2002.

[19] Manza, Uggen, and Britton, "The Truly Disfranchised."

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In response to the scandal surrounding the Miami mayoral elections of 1997, in which people voted fraudulently, through, for example, the misuse of absentee ballots and the use of names of people who had died, the state legislature passed a law requiring the state DOE to contract with a private vendor for the production of a central voter file (CVF) that would contain a list of all registered voters in the state. The CVF provided considerable information about voters including: voter identification number, name, and party affiliation; the political jurisdiction in which they were registered, down to the precinct level; and their address, date of birth, date of registration, race, and gender. It also contained a record of the voting history of each registrant—in which elections they had voted but not, obviously, for whom they had voted. The CVF, as its name implies, centralized the process of list maintenance by providing the state with the ability to match the records of all the counties in the state with statewide data on deaths and felons. It also allowed the state to search the CVF itself for people who were registered in two or more counties. But the state instituted this centralization without doing away with the decentralized processes that were already in place under the existing statute. As a result, it added a layer of verification on top of the one the law already required of the county supervisors. Specifically, the law required the DOE to provide the counties with updated information regarding felons, the mentally incompetent, and the deceased—what is commonly referred to as the exclusion list—once a year by 1 June.[20] The exclusion list also contained a list of people registered in more than one county. It was up to the supervisors to verify the information on the exclusion list and remove from the voter rolls those whom they found to be ineligible to vote. Understanding this structure—a centralized list with decentralized verification and implementation—is extremely important for understanding the way in which the felons list was used in the 2000 elections, because all but four of the county supervisors in office at the time had a stated party affiliation. At the time of the November 2000 elections, there were forty-four Democratic supervisors, nineteen Republican supervisors, and four nonpartisan ones. The state government was in the hands of Republicans. Thus, there was the potential for party politics to intrude into the list maintenance process, both in the production of the exclusion list and in its verification and implementation.

Before the 2000 elections, private contractors produced three exclusion lists for the State of Florida. Professional Analytical Systems & Services produced the first list in 1998, and Database Technology (DBT) produced the 1999 and 2000 lists. The 1998 list sent to me by the state's DOE contains records that are obviously flawed—they contain death and duplicate records from 1999. As a result, this analysis focuses on the 1999 and 2000 exclusion lists.[21] There were a total of 113,035 records in the 1999 list, and another 113,601 in the 2000 list. The records were fairly evenly divided into the three categories of felons, dupli-

[20] Florida Statute, Title IX, Chapter 98, 98.0975(2), 2002.

[21] 1999 and 2000 Exclusion Lists and April 2001 Central Voter File, available from author.

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TABLE 2

Record Counts and Matching Voter Identification Numbers Florida Exclusion Lists, 1999 and 2000

	1999	*2000*	*Matching Voter ID*	*Match of 2000 List, %*	*Unique Records, 1999 and 2000*
Felons	39,239	42,322	23,905	56	57,656
Deaths	34,264	31,025	5,727	18	59,562
Duplicates	39,532	40,254	14,339	36	65,447
Total	113,035	113,601	43,971	39	182,665

Source: State of Florida, Division of Elections.

cate registrations, and deaths in both years. Of these combined records 43,971 were repeated in both the 1999 and 2000 lists. As a result, there were at least 182,665 unique records with unique voter identification numbers in the two databases (Table 2). The 2000 felons list only had records from 65 counties. The two missing counties were Desoto and Glades, both of which have small populations, and which are omitted from the analysis. Given their absence from the 2000 list, we can assume that the 1999 records not in the 2000 lists were purged from the voter rolls between the summer of 1999, when the counties received this list, and 27 January 2000, when the new CVF was constructed, and from which the 2000 exclusion list was generated. As a result, the 2000 list included all those records that required some action from the counties in 2000.

The length of the 1999 exclusion list is an indication of either the extent to which the counties had not, up until 1999, been implementing the disfranchisement law, or the failure of the state to produce an accurate exclusion list, or a mix of both. The 1999 exclusion list showed that 9,886 deceased people, 14,419 duplicate registrations, and 28,849 convicted felons with "event" dates prior to 1998 were still on the voter rolls. An "event" was one that should have prompted a county supervisor to exclude the registered voter from the rolls. In other words, despite the passage of more than a year in which the supervisors could have purged their lists, there were 53,154 records from before 1998 in the 1999 exclusion list. The felons list stood out as one that had been the least effectively purged—83 percent of all its records had event dates prior to 1998. I provide evidence below that suggests that the state's process was flawed, but not so much so that we cannot infer from the length and contents of the exclusion list that the counties had not been cleaning their electoral rolls as they should have been. Nevertheless, the flaws in the centralized process left plenty of room for disagreement between the state and its counties about the validity of the list.

The 2000 list was a further test of the extent to which the state's procedures and those of the county supervisors were in agreement. There were still 7,523 deceased, 9,091 duplicate registrations, and 26,810 convicted felons with event dates prior to 1998 in the January 2000 CVF. Many of these records were from the 1999 list, but there were also 16,977 additions with event dates prior to 1998.

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The felon database had the greatest number of matches. Fifty-six percent of the felon records in 2000 matched those on the 1999 list, and 72 percent of the records in the 2000 list were the product of events that had occurred prior to 1998. The 1999 and 2000 matches were not evenly distributed across counties. The percentage of 2000 records matching 1999 records ranged from 81 percent in Holmes County to 0.2 percent in Miami-Dade County, where only three of the 1,388 felon records on the 2000 list were repeats from 1999. This should not be surprising. The scrutiny that this county endured as a result of the 1997 elections debacle made it vulnerable to accusations of incompetence and/or fraud if it did not aggressively use the list.

The matches between the 1999 and 2000 lists were, in hindsight, a harbinger of things to come. They revealed data quality problems and a large variation across counties in how election supervisors dealt with them. The data quality problems were of two sorts. First, the fact that new records with event dates prior to 1998 appeared in the 2000 list was symptomatic of a list production process that had either failed to include all ineligible voters in 1999 or had been overly inclusive in 2000. Second, the fact that no county purged all of its 1999 records and that these unpurged records reappeared on the exclusion list in 2000 is indicative of either a genuine disagreement between the state and the counties about the contents of the 1999 list, or a decision by county supervisors to simply not purge the lists. At the time, this was a nonpartisan issue. There was little overall difference in the purge rates of Democratic and Republican county supervisors: 55 percent of the 2000 felons list in Democratic counties were repeats of 1999 records, as were 58 percent of the records in Republican counties.

The nonpartisan nature of the exclusion list changed with the advent of the 2000 elections. After the elections, the Commission on Civil Rights (CCR) surveyed 63 of the 67 counties in Florida regarding their use of the exclusion list in anticipation of the 2000 vote. In addition, during hearings, the CCR gathered information on two other counties, Miami-Dade and Broward. And Salon.com conducted its own survey of thirteen counties, on two of which the CCR had gathered no data. As a result, we have a complete accounting of the extent to which counties used the exclusion list to identify felons and exclude them from voting.[22] Forty-three counties said they had used the list, while twenty-four said they had not. Fifteen of the nineteen Republican county supervisors used the list in one way or another; only twenty-six of the forty-four Democratic county supervisors did so; and two of the nonpartisan counties used the list and two did not. Almost all those who gave a reason why they did not use the list stated that they thought it was inaccurate. Although a majority did use the list, many

[22] Gregory Palast, "Florida's Flawed 'Voter-Cleansing' Program," accessed at www.salon.com 4 December 2000; Commission on Civil Rights, "Florida's County Elections Offices Use of the Central Voter File List," internal memo, 2001, available from author upon request; Commission on Civil Rights, *Voting Irregularities in Florida During the 2000 Presidential Election* (Washington, DC: Commission on Civil Rights, 2001), Chapter 5, 12–19.

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TABLE 3

Purge and Retention Rates by Party Affiliation
2000 Exclusion List and Central Voter File, April 2001

	County Supervisor's Party Affiliation							
	Democrat		*Nonpartisan*		*Republican*		*Total*	
Kept on Voter Rolls	*n*	*%*	*n*	*%*	*n*	*%*	*N*	*%*
Yes	15,699	67.39	2,941	30.91	3,923	41.26	22,563	53.31
No	7,598	32.61	6,575	69.09	5,586	58.74	19,759	46.69
Total	23,297	100.00	9,516	100.00	9,509	100.00	42,322	100.00

Source: Commission on Civil Rights, 2001; Salon.com 2001; State of Florida, Division of Elections.

did so after extensive checking, including mailing certified letters to those on the list asking them to verify their status. The exact procedures varied across counties.

A comparison of the 2000 felons list with the April 2001 CVF, using a combination of voter and county identification numbers, shows that overall, 53 percent of those on the felons exclusion list were still on the voter rolls as of April 2001. In other words, 53 percent of those identified by the Secretary of State's office as being ineligible to vote were still on the voter rolls after the election. Only two counties, Martin and St. John's, had purged all those on the felons list from the voter rolls. In the counties in which the supervisors said they used the list, 33 percent remained on the voter rolls in April 2001; while in counties that did not use the list, 74 percent were still on the voter rolls. As a result, 67 percent of people on the felons list were kept on the voter rolls in counties with Democratic supervisors, while 41 percent of people on the felons list in Republican counties were kept on the voter rolls (Table 3).

If the 2000 list was accurate, one could only characterize the behavior of the Democratic county supervisors as a cynical attempt to protect their political base in a close election. An accurate felons list also meant a list of low-income white and minority men who would be more likely to vote Democratic. By not using the exclusion list, a county supervisor was creating the opportunity for these people to vote. But most of the counties that decided not to use the list did so because they thought it was riddled with errors, and would disfranchise legitimate voters. As noted above, there are indications that the 2000 exclusion list was flawed. This was confirmed by the county supervisor's own verification of the data. For example, the county supervisor in Hillsborough County verified its felons exclusion list by matching it to the county's records and sending a certified letter to those identified as a felon asking them whether this was correct. Through this process the elections supervisor found that about 15 percent of the people on the felons exclusion list were on it in error.[23]

As I described above, other counties in Florida also used the list to purge their voting rolls, many after verifying the validity of the list. By matching the

[23] Palast, "Florida's Flawed 'Voter-Cleansing' Program."

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voter identification numbers on the exclusion list with those on the April 2001 CVF, by county, I have tried to come up with a more general estimation of the error rate, using data from all counties that used the list. As noted above, simply on the basis of the match between the exclusion list and the 2001 CVF, those counties that used the list to purge their voter rolls still kept a third of those on the felons list on the voter rolls. This is not necessarily a true estimate of the error rate for the exclusion list of each of those counties, because we do not know the exact procedures they followed. If the counties erred on the side of caution and only purged names from the voter rolls when they were certain that they did not belong on the rolls, then they might have retained some convicted felons on the voter rolls. In other words, 33 percent may be an overestimation of the error rate, and should be considered an upper limit. On the other hand, if we focus on Republican county supervisors who used the list—in other words, supervisors whose behavior and party affiliation would lead one to believe that they both had an interest in excluding as many on the felons list as possible and seemed to act on it—there were only two counties, St. John and Martin, who purged their rolls completely of all those on the felons list. The next most active county was Monroe County, which purged 85 percent of those on the felons list; and those Republican counties that purged more than 75 percent of those on the felons list still retained, on average, 19 percent of those on the felons list on the voter rolls. Even Miami-Dade, which had been most diligent about purging its records between 1999 and 2000, retained 210 of the 1,388 people on the felons list on the voter rolls—a 15 percent retention rate. The actual behavior of those counties that purged their lists, and had an incentive to do so thoroughly, suggests that they contained errors.

DBT itself made no representations regarding the accuracy of the lists, noting that it complied with requests from the state's DOE that the exclusion lists err on the side of greater numbers of records—false positives.[24] DBT and the DOE were explicitly relying on the counties to rid the exclusion lists of errors, as well as use them to purge names from the voting rolls. We also know that DBT's own processes revealed inconsistencies that could be signs of error. As noted above, the 2000 list contained records produced by events prior to the production of the 1999 list, yet those records were not on the earlier list. This means that either the 1999 procedure was not thorough or the 2000 procedure was overly inclusive. So to the extent that the list was filled with errors, the counties may have had legitimate procedural reasons for not using the felons list. Furthermore, to the extent that these errors resulted in the inclusion of more of one type of legitimate voter, who was more likely to vote for one candidate over another, there were also political reasons why a county might choose to use the list or not to use it.

[24] Commission on Civil Rights, *Voting Irregularities in Florida*, Executive Summary, 5.

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Error and Bias in the Exclusion Lists

The exclusion list contained demographic information about each voter, in particular their race and gender. We can test whether the list was biased by comparing the demographics of the lists with those we would expect if the lists were unbiased. Looking only at the records in which the demographic data were consistent, the records in the deaths and duplicates lists were fairly evenly matched between men and women. With respect to race, 79 percent on the duplicates list were whites, and 89 percent on the deaths list were whites. The duplicates list reflected the racial and ethnic demographics of registered voters, 78 percent of whom were non-Latino white. The proportion of whites on the deaths list was slightly higher than their proportion of registered voters, which most likely reflects the greater number of whites in Florida in the elderly population. The felon data require more interpretation. Of the records in which we have consistent data across both gender fields, 19 percent are women. This is close to the share of state-convicted felons who are women, nationally, which is 16 percent, suggesting that there is no bias for or against women.[25] This is not the case if we look at the data broken down by race. Of the records in which we know with some confidence the race of the voter, 44 percent of the records identify the person as African American, 51 percent as white, 3 percent as Latino, and the rest as other races or ethnicities (Figure 1). The Florida inmate population as of 30 June 2000 was 54 percent African American, although this does not fully take into account Latinos, many of whom may be classified as African American.[26] Manza et al., on the basis of 1998 data, estimate that African Americans constituted about 29 percent of the disfranchised population. Focusing only on those who *should be* most likely to be on the list, nonincarcerated felons and ex-felons, Manza et al. estimate that 27 percent were African American. These estimates suggest that African Americans were over-represented on the 2000 felons exclusion list.[27]

This bias raises the possibility that those on the list in error were disproportionately African American. (The other possibility is that a disproportionate number of African American felons were registered to vote.) We can test to see whether the errors on the list were biased, because we know the race of almost all of the people on the list who were subsequently retained on the voting rolls, keeping in mind that the counties may themselves have erred on the side of caution in deciding who to retain on the rolls—something that I attempt to control for in the analysis that follows.

The test for bias involves a comparison between the demographic composition of those who were on the exclusion list but were still on the voter rolls in April 2001 (the demographic composition of the "errors"), on the one hand,

[25] David Levin et al., "*State Court Sentencing of Convicted Felons, 1996*" (Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics, NCJ175708, 2000).

[26] Florida Department of Corrections, *1999–2000 Annual Report.*

[27] Manza, Uggen, and Britton, "The Truly Disfranchised," Appendices 1 and 2.

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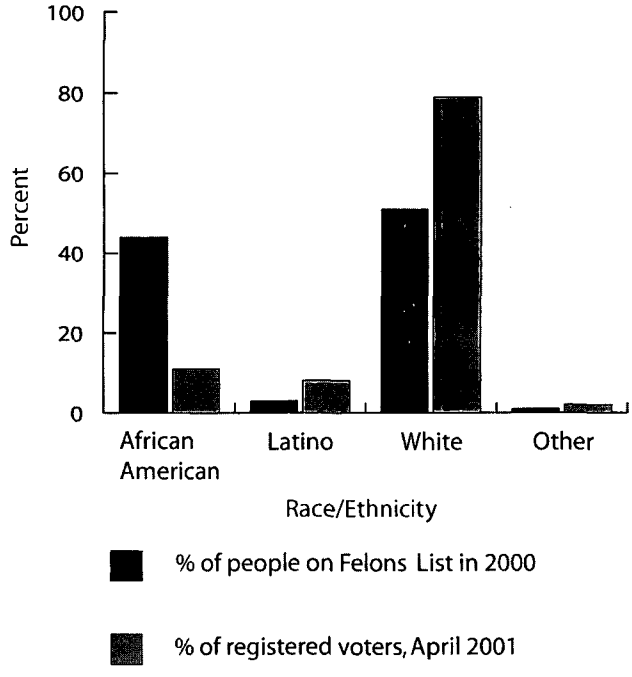
FIGURE 1
All Counties



and the demographic composition of registered voters listed in the January 2000 CVF, which was used to generate the exclusion list. This is the correct comparison because if the exclusion list errors were truly errors, then they would constitute a random sample of the group from which they were drawn, the January 2000 CVF, and thus reflect the demographics of those in that file. Errors that result from errors in the original list of felons used to match with the CVF will be a random sample. But errors that result from problems in the matching process will be similar to the demographic distribution of the CVF, but not exactly the same. I do not have the January 2000 CVF, but I do have the April 2001 CVF. These two files are very likely to have the same demographic composition because the purges made by the counties and other changes in the voter rolls over the intervening fifteen months were few in number and thus unlikely to create a significant difference between the two files. As a result, I use the April 2001 CVF as the basis for my analysis of whether the errors on the felons exclusion list were biased.

Thirty-six percent of those on the felons list who were not purged, in counties in which the supervisors used the list to purge the voter rolls, were African American, while only 11 percent of registered voters in those same counties were African American (Figure 2). In contrast, whites constituted 59 percent of registered voters on the felons list who were not purged, in those same coun-

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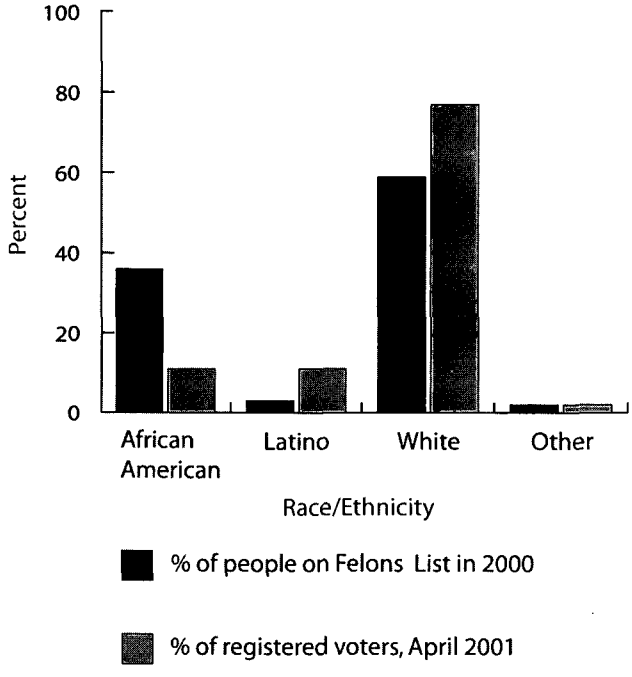
FIGURE 2
Counties That Used List



ties, yet they constituted 77 percent of the registered voters. And, finally, Latinos constituted 3 percent of those on the felons list who were not purged, but were 11 percent of the registered voters. In other words, *African Americans on the felons list were more likely to be retained on the voter rolls than either whites or Latinos on the felons list, given each group's share of the population of registered voters.* Assuming for now that those people retained on the voter rolls by counties that used the list were on the list in error, then these data provide strong evidence that the errors were biased. But, as noted above, we cannot be sure that all those retained on the voter rolls in April 2001 were on the exclusion list in error. A more rigorous test is to look at the demographic composition of those retained on the voter rolls in counties whose supervisors, as demonstrated by their behavior, rigorously purged the voter rolls of those on the exclusion list. Fourteen counties purged over 75 percent of those on their felons lists. In these counties, 38 percent of those retained on the voting rolls were African American, although they constituted only 12 percent of the registered voters in those same counties (Figure 3). The percentages for whites were 59 percent and 71 percent respectively, while for Latinos they were 5 percent and 15 percent. These "high-purge" counties included Miami-Dade; hence, the high percentage of Latino registered voters. When we exclude this county from the calculations, the bias remains the same, except that the percent of Latinos retained on the voting rolls despite being on the felons list is almost the same as the

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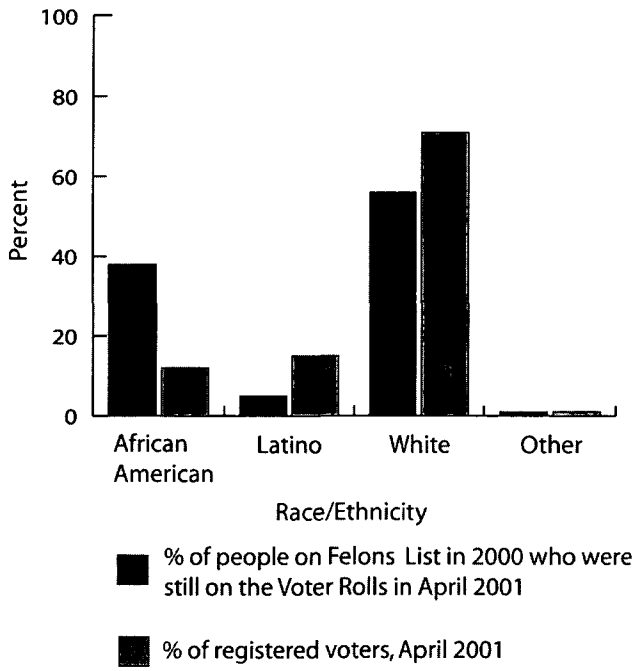
FIGURE 3
High-purge Counties



percent of Latinos on the voting rolls (Figure 4). Miami-Dade kept proportionately more African Americans who were on the felons list on the voter rolls than it did Latinos or whites (Figure 5). Note that Miami-Dade had been rigorous in its purging of the voter rolls between 1999 and 2000. The fact that a county with a rigorous purge policy should end up with a biased racial distribution of those retained strongly suggests that the felons list it received from the state in 2000 had racially biased errors. Furthermore, looking at other counties in which we know, on the basis of the CCR report, that elections' supervisors sent verification letters to people on the felons list, the data clearly show that African Americans were more likely to be retained on the voter rolls in numbers greater than one would expect, given their percentage of the registered voters. In Hillsborough County, African Americans constituted 42 percent of those retained, but only 12 percent of registered voters; in Leon County, the respective numbers were 63 percent and 24 percent; and in Okaloosa County, they were 21 percent and 7 percent.[28]

A final test is to look at the demographic composition of those retained on the voter rolls in counties in which not only was the purge rigorous, but the

[28] A description of Leon and Okaloosa Counties' purge methods can be found in Commission on Civil Rights, *Voting Irregularities in Florida*, Chapter 5, 12–13; for Hillsborough County, see Gregory Palast, "Florida's Flawed 'Voter-Cleansing' Program," accessed at www.salon.com, 4 December 2000.

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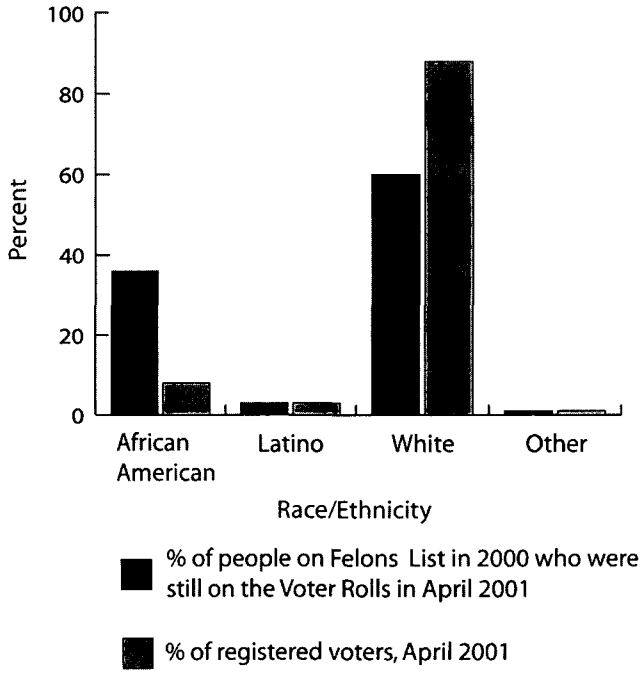
FIGURE 4
High-purge Counties Excluding Miami



county supervisors had an interest in purging African Americans—namely, high-purge, Republican counties. These counties kept African Americans on the voter rolls in numbers greater than their presence on the voter registration rolls would predict (Figure 6). In other words, even Republican supervisors who purged the rolls aggressively found biased errors. Overall, there is little difference in the distribution of those purged and those not purged across counties that used the list but had supervisors with different party affiliations, once one has taken into account the differences in the distribution of registered voters in the different counties. These data support the contention that the high retention rates of African Americans were due to the fact that they were more likely to be on the felons list in error, rather than to any biased purging on the part of county supervisors.

The data suggest that the felons list contained errors and that those errors were biased. The source of the errors could have been the matching process or the data used to produce the felons list, a "garbage in, garbage out" problem. I will consider each type of explanation in turn. One possibility is that DBT used race to match records and this resulted in a biased overinclusion of African Americans. For records in which the race of the registered voter was known and the race of the person in the matching data was also known, there were 2,645 records (6.7 percent of all the records in which the race was identified) in which the race information did not match, of which 1,088 were black/white

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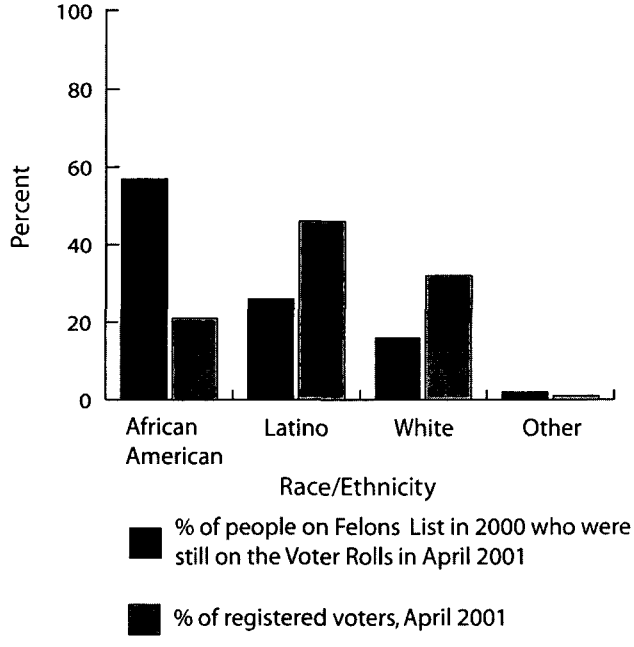
FIGURE 5
Miami-Dade County



mismatches. This error rate suggests that DBT was not using race to match data on felons with the CVF.

Another potential source of error was the reliance DBT placed on names as a way to match data on felons with the CVF. It is impossible to say with certainty how accurate DBT's matching process was, but evidence from the 2000 purge process does give some idea. In the high-purge counties, 83 percent of all those on the felons list who were matched by name and date of birth were purged—the most accurate form of matching that DBT used. This purge rate was higher than it was for records matched using other methods, which were only purged at a 76 percent rate. In other words, as one might expect, the data suggest that county supervisors found more errors in the matches produced through the less-precise matching process. Furthermore, looking at the racial distribution of those matched by the two processes (name-and-date-of-birth matches against social-security-number matches), there was a higher percentage of African Americans in the group of people matched through less-precise methods (50 percent) than through the name-and-date-of-birth matches (41 percent). Nevertheless, even African Americans matched by name and date of birth were more likely to make up a disproportionate share of those retained on the list when compared to the composition of the registered voters in the high-purge counties—they constituted 34 percent of those retained on the list in counties in which African Americans were only 12 percent of the registered

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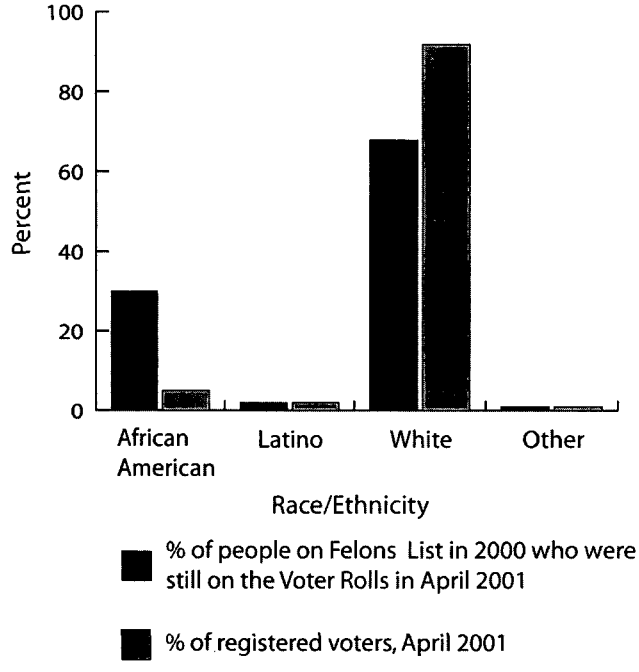
FIGURE 6
High-purge Republican Counties



voters. In other words, the data suggest that the name-and-date-of-birth matching process resulted in the least errors, according to the county supervisors in the high-purge counties, and in matches least likely to include African Americans. Nevertheless, even the more-precise matching process resulted in errors that were biased, according to those same county supervisors.

The racial distribution data highlight an important point about the process of name matching and how it may result in racial bias. It is possible for errors from a process of matching names to be biased because of the distribution of people of different races across names. The names on the 2000 duplicates exclusion list were, roughly, a random selection of names from the general voting population. The data cited above suggest that there was no racial bias in the list. African Americans are disproportionately concentrated among the most common names on the list. Among the top ten names, 18 percent of Smiths were African American and 51 percent of Williamses were. Overall, there were 17,919 names on the list. The top 100 names accounted for 19 percent of the people on the list, but 35 percent of African Americans on the list and only 16 percent of whites. Breaking the data down another way, African Americans constituted 20 percent of the people with the top 100 names in Florida, yet they constituted only 11 percent of registered voters. This name "segregation" could result in a bias in the racial distribution of errors if the error rate in a process relying on matching names is far higher for common names than for uncommon

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names. This is likely because there are more names with which to match erroneously. Any group disproportionately concentrated in common names will end up being disproportionately included in a matching process in error. Beyond matching names and dates of birth, DBT's matching methodology relied heavily on matching names and other types of data less reliable than the date of birth. It is these methodologies that produced the more-biased errors, and this provides some evidence that a name-matching process resulted in bias. Nevertheless, even with the best matching process, there was still considerable bias in the errors resulting from the production of the felons list. This points to a "garbage in" problem, rather than a problem with the matching process alone.

The most well-documented "garbage in" problem was DBT's use of felon records from other states to identify people living in Florida who were convicted of a felony in another state.[29] As the CCR and others have documented, felons who have been convicted of felonies in other states but who have had their civil rights restored are eligible to vote in Florida.[30] They do not have to go through Florida's own executive clemency board procedure to have their civil rights restored in that state. Nevertheless, the state gave incorrect guidance to the county supervisors on how to treat felons who had had their civil rights restored in another state, something that became an issue when DBT introduced out-of-state felon data into the list maintenance procedure. The combined effect of the inclusion of out-of-state felons and incorrect guidance to the county supervisors was that almost 3,000 voters were misidentified as being ineligible to vote. There were 311 registered voters who had been convicted of a felony in Illinois, which automatically restores the civil rights of felons once they leave prison, on the 1999 exclusion list. One hundred of these did not reappear on the 2000 list—presumably they were purged from the rolls in the interim. The 2000 list included convicted felons from Ohio, another state that automatically restores civil rights on release from prison.[31] Combined, there were 1,704 exfelons on the 2000 list, of which 211 were holdovers from the 1999 list. So we can be certain that a total of 1,804 out-of-state felons registered to vote in Florida were on the felons exclusion list—the 100 who had been purged between 1999 and 2000 and those remaining on the list.

There were also 1,147 voters on the 1999 and 2000 lists who were from states that do not allow incarcerated felons or those on parole or probation to vote. But once felons have served their time, these states automatically restore their civil rights. The states are Connecticut, New Jersey, South Carolina, Texas, and Wisconsin. Although it is unlikely that they were either on probation or parole (because they would likely be in violation of their parole/probation conditions by being out of the states in which they were convicted), we cannot be certain

[29] See, for example, Gregory Palast, "The Wrong Way to Fix the Vote," *The Washington Post*, 10 June 2001; Commission on Civil Rights, *Voting Irregularities in Florida*, 8.

[30] Commission on Civil Rights, *Voting Irregularities in Florida*, 9.

[31] U.S. Department of Justice, "Restoring Your Right to Vote, Ohio, 2000," accessed at http://www.usdoj.gov/crt/restorevote/Florida.pdf, 17 June 2002.

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that these individuals had had their rights restored. Nevertheless, it is likely that these 1,147 were legal voters. Added to the 1,804 who we are sure were legal voters, the total number of legal voters on the felons list was close to 3,000. Finally, there were 322 voters convicted of a felony in Kentucky, Virginia, or Washington State on the exclusion list. These states disfranchise for life, and so the names were correctly included in the exclusion list. Although DBT's exclusion of voters from other states with different voting laws was an egregious violation of their voting rights, their presence on the exclusion list does not explain the pattern of errors we are seeking to explain. This is so for two reasons. First, the racial composition of this group of registered voters is very different from the composition of the list as a whole: it is 70 percent white. Furthermore, the counties did not uniformly identify these voters as being on the felons list in error—only 60 percent of them were retained on the voting rolls. Even people whose felony convictions were in Illinois or Ohio were purged by some counties.

Another potentially significant instance of the problem of "garbage in" was the quality of the data from within Florida that DBT used. DBT relied on the state to provide it with data on felons and ex-felons in the state. The felons exclusion list identified the source of the data used in the matching process: 39,259 of the records were identified as coming from the Florida Department of Law Enforcement (FDLE) via the DOE, with the other 3,063 coming from DBT's own data sources. The FDLE's track record in generating good data had not been stellar. The CCR found that the FDLE performed record checks on a listing of 13,190 alleged felons in December 1999, at a cost of $8 per record. Despite its efforts to check the records, the FDLE had to respond to approximately 5,000 voters whose names appeared on the felons exclusion list and who appealed a notice from a local supervisor of elections that they were ineligible to vote. According to the CCR, "approximately 50 percent were found to be convicted of felonies in Florida and 50 percent were determined not to have Florida felony convictions."[32]

Thus, the test the FDLE performed demonstrated a very high error rate, ranging from 19 percent, if one assumes that all nonrespondents were actually felons, to 50 percent, if one assumes that the felon rate among respondents was representative of all 13,190 alleged felons on the list that was checked. It is not clear whether the problem lay with the FDLE procedure or with its data, although the cost of the procedure indicates that some programming and other effort was put into the process. But there was ample warning that using FDLE data required considerable caution.

Looking only at the data coming from the FDLE through the DOE in 2000, it is clear that these data and their treatment by the county supervisors determined the racial composition of those retained on the voting rolls. There were 39,259 records in the 2000 felons list whose source is identified as the DOE. A match of these with the April 2001 CVF shows, once again, that African Ameri-

[32] Commission on Civil Rights, *Voting Irregularities in Florida*, Chapters 5, 7.

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cans were more likely to be retained on the voter rolls, even within high-purge counties. Within this group of voters retained on the rolls, 42 percent were African American, 53 percent were white and 4 percent were Latino. The data suggest that the list that the DOE gave to DBT to match with the CVF in 2000 was highly flawed. Furthermore, the fact that the distribution of errors across race was so similar to the distribution of those on the list overall suggests that the erroneous data came from a source with a population distribution similar to that of the population of felons. It may be that the DOE data included data on people convicted of misdemeanors, or even arrest data, rather than just those convicted of felonies. To the extent that the population of people convicted of misdemeanors is similar to the population of people convicted of felonies, then, if the former were the source of the errors, we would expect the errors to have a distribution similar to that of the felons on the list.

What impact did the errors on the felons list have on the outcome of the 2000 election for president, given George W. Bush's small margin of victory over Al Gore? The felons list did not include the party affiliation of those people on it, but the CVF did. Of those on the CVF in April 2001 who were also on the felons list, 61 percent were registered Democrats, 23 percent were registered Republicans, and 16 percent were registered with another party. The reason for this skew toward Democrats is simple: 84 percent of African American voters on the felons list retained on the voter rolls were Democrats, whereas only 43 percent of their white counterparts were Democrats. As a result, the high percentage of African Americans retained on the voter rolls resulted in the high percentage of Democrats retained. Of those who remained on the voter rolls in April 2001, 38 percent voted in the 2000 elections, which is far below the rate for all registered voters in Florida. Nevertheless, in those counties in which county supervisors said they did not use the list, a far higher percentage of those on the felons list voted than in counties in which supervisors did use the list. Of those who voted, 64 percent were registered Democrats, 24 percent were registered Republicans, and 10 percent were registered with another party. If the county supervisors had simply used the felons list to purge all those on it from the voter rolls, then, clearly, the use of the list would have favored the Republicans. But only two counties conducted a 100 percent purge; the rest used the list more judiciously, if at all. As a result, the existence of the list may have ended up favoring the Democrats because in counties that did not use the list, it is likely that some ineligible voters voted, and those ineligible voters were more likely to be Democrats. The numbers in these counties are likely to have far outweighed the numbers in the two counties in which eligible voters, who were also more likely to be Democrats, may have been denied their right to vote because of a 100 percent purge.

Conclusion

In the wake of the November 2000 elections, there has been an extensive search for the "smoking gun" of discrimination, or, more precisely, a number of guns.

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This paper suggests that the distribution of errors in the high-purge, Republican counties may be one of them. These were counties in which there was the least incentive to retain African Americans on the voter rolls, and in which there was the most rigorous purging of the voter rolls using the list, yet which still retained on the rolls a disproportionate number of African Americans, suggesting that a disproportionate number of African Americans were on the exclusion lists of those counties in error. Although, in this instance, the smoking gun may have been found and traced to its owner, the State of Florida, we should not conclude that that is the end of the story. Rather, the search for the smoking gun of discrimination has unveiled broader lessons of which we need to take note.

First, electoral law and its implementation are partisan in the United States. This is consistent with the history of voting rights in the United States, not only in regard to the voting rights of African Americans, but also in regard to those of others, such as working-class citizens, illiterates, and women. Alex Keyssar documents numerous instances in which electoral reforms to either narrow or widen the franchise were clearly informed by partisan considerations.[33] Ironically, with the exception of the post-Reconstruction South, the history of felon disfranchisement seems to have been less fraught with partisan politics, in a direct way. This seems to have been because, as a practice, it was locked in to many state constitutions soon after the founding of the republic. This lock-in has been preserved by the politics surrounding the Fourteenth Amendment, the Voting Rights Act of 1965, and even the Voter Registration Act of 1993. Nevertheless, felon disfranchisement has deeply partisan implications, and the Florida elections revealed this. Specifically, so long as those convicted of felonies are more likely to vote for one party over another (in this case the Democratic Party), the thorough enforcement of felon disfranchisement laws will accrue electoral benefits to the Republicans.

But partisanship has to hang its hat on something. In this case, the hook was the doubts about the validity of the felons list. Ironically, this meant that fewer Democrats were purged from the voter rolls than might have been the case if the county supervisors had not had doubts about the felons list and had used it universally. This raises two further questions about the future of partisanship over the issue of felon disfranchisement. The elections revealed a problem presented by felon disfranchisement laws in those states that disfranchise felons who are not incarcerated. Florida essentially attempted to implement an eighteenth-century policy—disfranchising unincarcerated felons, in a twentieth-century social context, using twentieth-century technology. The idea of felon disfranchisement derives from the English idea of "civil death," whereby a felon was stripped of the protection afforded him by the state but was not incarcerated.[34] Civil death included the loss of voting rights, as well as property

[33] Keyssar, *Right to Vote*.

[34] Marc Mauer, *Race to Incarcerate* (New York: The New Press, 1999).

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rights and other rights. In a close-knit society, there was no problem enforcing such a policy—everyone knew who the felon was. Today, we have a highly mobile society, in which we are not expected to police each other. Yet Florida and thirty-two other states want to keep track of felons outside of prison to make sure they do not register to vote. The events in Florida reveal that whether it was intentional or not, trying to systematically implement such a law is extremely difficult. In particular, compiling a list of felons and ex-felons can result in a large number of false positives, even before the matching process has begun. Furthermore, matching names, even with date-of-birth information, is very difficult. So long as the process of producing an accurate felons list remains fraught with problems, the implementation of felon disfranchisement laws will continue to be a partisan issue, especially in close elections.

If, on the other hand, states create exclusion lists that they have verified impeccably and if they are able to undermine efforts at partisanship based on their quality, then partisanship is likely to move to a different level, away from the counties to the state legislatures and the Congress. In particular, Democrats will be faced with a very difficult political decision: should they seek to undo the legislative (and even constitutional) underpinnings of the electoral impact of an effective implementation of the current disfranchisement laws, namely federal endorsement of such laws in combination with draconian drug laws that disproportionately impact African Americans and Latinos? If history is any guide, the choice will be purely political: weighing the gain of the votes of the disfranchised against the loss of voters who vote Republican, in reaction to policies overturning either the disfranchisement laws or the drug laws, or both.

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The Global Governance of the Internet: Bringing the State Back In

DANIEL W. DREZNER

The accelerating pace of economic globalization has generated a lot of bad international relations theory. The loudest theoretical response to this phenomenon predicts a race to the bottom in wages, regulatory standards, and social protections.[1] Although popular with antiglobalization protestors, the race to the bottom theory has the tragic flaws of dubious theoretical presumptions and meager empirical support.[2] Another strand looks at the empowerment of nonstate actors, such as multinational corporations, nongovernmental organizations (NGOs), and transnational activist networks.[3] Another segment of the literature debates the ability of international institutions to supply effective global governance.[4] All of these strands focus on the decline of state autonomy relative to other forces in world politics. These "islands of theory" focus on small parts of the larger question of how globalization affects governance; as a result, this work fails to see the forest for the trees.

[1] Richard Falk, "State of Seige: Will Globalization Win Out?" *International Affairs* 73 (January 1997): 123–136; Arthur Schlesinger, Jr., "Has Democracy a Future?" *Foreign Affairs* (September/October 1997): 7–8; Alan Tonelson, *The Race to the Bottom* (Boulder, CO: Westview Press, 2000).

[2] Daniel W. Drezner, "Bottom Feeders," *Foreign Policy* 121 (November/December 2000): 64–70.

[3] Ronnie Lipschutz, "Reconstructing World Politics: The Emergence of a Global Civil Society," *Millennium* 21 (Spring 1992): 389–420; Susan Strange, *The Retreat of the State: The Diffusion of Power in the World Economy* (Cambridge: Cambridge University Press, 1996); Jessica Matthews, "Power Shift," *Foreign Affairs* 76 (January–February 1997): 50–66; Margaret Keck and Kathryn Sikkink, *Activists Beyond Borders* (Ithaca, NY: Cornell University Press, 1998).

[4] Abram Chayes and Antonia Handler Chayes, *The New Sovereignty* (Cambridge, MA: Harvard University Press, 1995); Kenneth Waltz, "Globalization and Governance," *PS: Political Science and Politics* 32 (December 1999): 693–700.

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The scholarly research on the Internet encapsulates all of the theoretical problems with the globalization literature, only in a more concentrated form. For international relations theorists, the defining feature of the Internet is that it "overcomes all barriers of territorial distance and borders."[5] Because the transaction costs of communication are so low on the Internet, nonstate actors can coordinate their activities to a much more sophisticated degree than in the past. Internet sites can be located anywhere on the globe, making it possible for businesses and individuals to bypass any set of state regulations. It becomes increasingly difficult to reconcile state regulations with the decentralized structure of the computer network.[6] In place of the state, cyberanalysts posit a governance structure with more emphasis on direct democracy and open debate, guided by an epistemic community of cyberenthusiasts who embrace the libertarian creed of no state interference.[7] If globalization has altered international relations, its effects are most pronounced in the regulation of the Internet.

Do globalization and the Internet weaken the ability of states to regulate the global economy? This paper argues that the consensus summarized in the previous paragraph is largely wrong. States, particularly the great powers, remain the primary actors for handling the social and political externalities created by globalization and the Internet. As the primary actors, the great powers are the most consistently successful in achieving their preferences relative to other actors. Powerful states will use a range of foreign policy substitutes, such as coercion, inducements, delegation, and forum shopping across different international institutions to advance their desired preferences into desired outcomes. Nonstate actors can still influence outcomes on the margins, but their interactions with states are more nuanced than the globalization literature suggests.

The substitutability principle is essential to understanding how globalization affects global governance.[8] States can and will substitute different governance structures, and different policy tools to create those structures, depending on the constellation of state interests. Great-power options include delegating regime management to nonstate actors, creating international regimes with strong enforcement capabilities, generating competing regimes to protect material interests, and tolerating the absence of effective cooperation because of divergent state preferences. Because globalization scholars fail to consider the delegation strategy as a conscious state choice, they have misinterpreted the state's role in global governance.

The international regulation of the Internet provides a fertile testing ground for these arguments. Prior analysis on the Internet has been fuzzy, due in part to the assumption that all Internet-related activity can be defined along

[5] Jan Aart Scholte, *Globalization: A Critical Introduction* (New York: St. Martin's Press, 2000), 75.

[6] Virginia Haufler, *A Public Role for the Private Sector* (Washington, DC: Carnegie Endowment for International Peace, 2001), 82.

[7] John Perry Barlow, "A Declaration of the Independence of Cyberspace," 2 September 1996, accessed at http://www.islandone.org/Politics/DeclarationOfIndependance.html, 29 May 2002.

[8] Benjamin Most and Harvey Starr, "International Relations Theory, Foreign Policy Substitutability, and 'Nice' Laws," *World Politics* 36 (April 1984): 383–406.

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a single policy dimension. In fact, the Internet has generated multiple areas of governance, including the development of technical protocols, censorship, e-taxation, intellectual property, and privacy rights. For many of these issue areas, states express divergent interests, halt cross-border Internet transactions that contradict their preferences, and use international governmental organizations (IGOs) and treaties to advance their preferences. Even on issues in which there are large zones of agreement, such as the standardization of technical protocols, the great powers will manipulate private forms of authority to achieve their desired ends.

The implications for scholars of international relations and globalization are significant. The Internet could be safely described as a tough test for state-centric theories of international relations, and an easy test for global civil society arguments.[9] If states are found to be the key actors for Internet-related issues, the globalization literature will need to reconsider the relationship between states and nonstate actors. The evidence presented here suggests that both IGOs and NGOs have roles to play in global governance. At times they can act as independent agenda setters, but more often they act as the agents of state interests. Only by understanding these actors as governance substitutes in the global Internet regime can one acquire a greater understanding of global governance in an era of economic globalization.

The rest of this paper is divided into five sections. The next section reviews the existing arguments on the Internet and international relations. The third section presents a model of global regulation based on the distribution of state power and interest, and examines how this model explains various regulatory dimensions of the Internet. The fourth section briefly surveys Internet issues over which states have strong disagreements—content regulation, intellectual property rights (IPR), and privacy rights—and finds that states have acted decisively to lock in their preferences in those issue areas. The fifth section reviews the international regimes regulating the technical protocols that form the backbone of the Internet. This section confirms that when states are largely in agreement about regulatory outcomes, great powers will prefer to delegate regime management to nonstate actors, but their influence still dominates the outcome. The final section considers the ramifications of the study of globalization and global governance.

Globalization and the Internet: The Accepted Wisdom

Over the past decade, there has been an energetic debate about how globalization alters governance. From this debate, one can distill two clear hypotheses about the effects of globalization on the management of the global political economy. In the first, globalization undercuts state sovereignty, weakening

[9] On case selection, see Harry Eckstein, "Case Study and Theory in Political Science" in Fred Greenstein and Nelson Polsby, eds., *Handbook of Political Science*, vol. 7 (Reading, MA: Addison-Wesley, 1975).

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governments' ability to effectively regulate their domestic affairs. Global market forces are both powerful and uncontrollable, stripping governments of their agency. As Thomas Friedman phrases it, globalization forces states into the "Golden Straitjacket," in which they must choose between "free market vanilla and North Korea."[10] A number of international relations scholars have argued that globalization drastically reduces the state's ability to govern.[11]

The second hypothesis is that as state power has waned, globalization has simultaneously enhanced the power of nonstate actors via the reduction of transaction costs across borders. The characterization of these nonstate actors varies from author to author. Peter Haas argues that when communities of technical experts reach a consensus on a particular policy issue, governments will follow their lead.[12] Paul Wapner posits that the growth of NGOs amounts to the creation of a global civic society that is too powerful for states to ignore.[13] Virginia Haufler observes that multinational corporations often create their own governance structures to compensate for the retreating state, leading to new "private authority" structures.[14]

International relations theorists and cyberenthusiasts agree that the Internet greatly enhances both of these effects of globalization. Regarding state power, Frances Cairncross notes, "Government jurisdictions are geographic. The Internet knows few boundaries. The clash between the two will reduce what individual countries can do. Government sovereignty, already eroded by forces such as trade liberalization, will diminish further. . . . One result: no longer will governments be able to set the tax rates or other standards they want."[15] Viktor Mayer-Schönberger and Deborah Hurley observe, "Governance based on geographic proximity, territorial location and exclusivity of membership to such physical communities will be fundamentally challenged by the advent of numerous non–proximity-based, overlapping virtual communities."[16] Cyberguru John Perry Barlow opined that "By creating a seamless global economic zone, borderless and unregulatable, the Internet calls into question the very idea of the nation-state."[17]

[10] Thomas Friedman, *The Lexus and the Olive Tree* (New York: Farrar, Strauss, & Giroux, 1999), 86.

[11] Strange, *Retreat of the State.* Dani Rodrik, *Has Globalization Gone Too Far?* (Washington, DC: Institute for International Economics, 1997); Ian Clark, *Globalization and International Relations Theory* (Oxford: Oxford University Press, 1999); Richard Rosecrance, *The Rise of the Virtual State* (New York: Basic Books, 1999).

[12] Peter Haas, "Introduction: Epistemic Communities and International Policy Coordination," *International Organization* 46 (Spring 1992): 1–35.

[13] Paul Wapner, "Politics Beyond the State: Environmental Activism and World Civic Politics," *World Politics* 47 (April 1995): 311–340.

[14] Haufler, *A Public Role for the Private Sector.*

[15] Frances Cairncross, *The Death of Distance*, 2nd ed. (Cambridge, MA: Harvard Business School Press, 2000), 177.

[16] Viktor Mayer-Schönberger and Deborah Hurley, "Globalization of Communication" in Joseph S. Nye, ed., *Governance in a Globalizing World* (Washington, DC: Brookings Institution, 2000), 23.

[17] John Perry Barlow, "Thinking Locally, Acting Globally," *Time*, 15 January 1996, 76.

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There is also general agreement that the Internet enhances the power of nonstate actors, permitting them to network at an ever-increasing level of sophistication. Stephen Kobrin asserts that because NGOs coordinated their strategies and actions over the Internet, they were able to derail the efforts of the developed countries to fashion a Multilateral Agreement on Investment (MAI).[18] Ronald Deibert concurs, arguing: "What the Internet has generated is indeed a new 'species'—a cross-national network of citizen activists linked by electronic mailing lists and World-Wide Web home pages that vibrate with activity, monitoring the global political economy like a virtual watchdog."[19] The increased coordination of protests at venues such as Seattle, Washington, Genoa, and other ports of call speaks to the sophistication of nonstate actors in the Internet age.

Following these arguments to their logical conclusion, the issue area in which the effects of globalization should be at their most concentrated is the regulation of the Internet itself. Internet governance should see states at their most enfeebled and nonstate actors at their most powerful. This is certainly the conclusion of most international relations scholars who study the Internet. Deborah Spar observes, "International organizations lack the power to police cyberspace; national governments lack the authority; and the slow pace of interstate agreement is no match for the rapid-fire rate of technological change."[20] Haufler concurs, noting, "The decentralized, open, global character of . . . the Internet makes it difficult to design and implement effective regulations through top-down, government-by-government approaches."[21]

Cyberenthusiasts concur with this assessment. Nicholas Negroponte, the cofounder of MIT's Media Lab, states: "The Internet cannot be regulated. It's not that laws aren't relevant, it's that the nation-state is not relevant."[22] A cursory review of the nonstate actors involved in the regulation of the Internet—the Global Business Dialogue on e-commerce (GBDe), the Internet Engineering Task Force (IETF), the Internet Society (ISOC), and the Internet Consortium for Assigned Names and Numbers (ICANN)—suggests the existence of a strong, coherent, epistemic community on these issues. Examining Internet regulation is a tough test for any theory of global governance that gives pride of place to nation-states.

[18] Stephen M. Kobrin, "The MAI and the Clash of Globalizations," *Foreign Policy* 111 (Fall 1998): 97–109.

[19] Ronald Deibert, "International Plug 'n Play? Citizen Activism, the Internet, and Global Public Policy," *International Studies Perspectives* 1 (July 2000): 264.

[20] Deborah Spar, "Lost in (Cyber)space: The Private Rules of Online Commerce" in Claire Culter, Tony Porter, and Virginia Haufler, eds., *Private Authority and International Affairs* (Albany: SUNY Press, 1999), 47. Spar refined this view in *Ruling The Waves* (New York: Harcourt Brace, 2001).

[21] Haufler, *A Public Role for the Private Sector*, 82.

[22] Andrew Higgins and Azeem Azhar, "China Begins to Erect Second Great Wall in Cyberspace," *The Guardian*, 5 February 1996.

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A Theory of Global Governance

The theory proposed here assumes that states remain the primary actors in world politics.[23] Their preferences on regulatory issues have their origins in domestic politics. The logic behind this assumption is simple: most social issues originated as domestic problems before globalization made them international issues. Governments will naturally prefer that global regulations mirror their own national standards. This reduces the adjustment costs of any requisite legislative or regulatory changes for governments, as well as the costs for national firms to adhere to a new standard. State power is defined as the size of a state's internal market; the larger the market, the more powerful the state. States with significant internal markets are less dependent on international exchange as a source of goods and capital.

Regulatory coordination can lead to welfare gains for governments, through the reduction of transaction costs for international business and the reduction of social externalities for citizens. At the same time, such coordination can redistribute benefits toward states with domestic standards close to the agreed-upon international standard.[24] If the benefits are significant and the divergence of preferences among the great powers is small, then a sizeable bargaining "core" exists, making successful coordination a likely outcome. If the public benefits of coordination are minor and the divergence of preferences among the great powers is large, then a core will not exist, and the relevant actors will have no incentive to cooperate.

While the perceived size of the public good and the divergence of great-power preferences are the main causal variables, there is one important intervening variable: the preferences of the lesser powers, or peripheral states. These countries' preferences do not affect whether coordination will occur, but they do affect the bargaining process, and therefore, great-power strategies. If peripheral states oppose certain regulatory arrangements, they can effectively block such arrangements in universal membership IGOs that rely on one country, one vote. Therefore, great powers must take the preferences of smaller states into account when they select both the type of bargaining fora and the type of strategies to foster a consensus.

Table 1 displays the typology of governance structures generated from the distribution of state preferences. The key variable determining whether there will be *effective* coordination is the size of the bargaining core among the great powers.

If a large core exists, peripheral state preferences determine the process through which regulatory harmonization takes place. When peripheral states oppose the agreed-upon standard, big states will prefer to employ IGOs with

[23] For a lengthier treatment, see Daniel W. Drezner, "Who Rules? State Power and the Structure of Global Regulation." Paper presented at the American Political Science Association annual meeting, Boston, MA, August 29–September 1, 2002.

[24] Stephen D. Krasner, "Global Communications and National Power: Life on the Pareto Frontier," *World Politics* 43 (April 1991): 336–366.

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TABLE 1

A Typology of Internet Governance Issues

Great Power Distribution of Preferences	*North/South Distribution of Preferences*	
	High Conflict	*Low Conflict*
High Conflict	*Sham standards* (Censorship)	*Rival standards* (Consumer privacy)
Low Conflict	*Club standards* (Intellectual property)	*Harmonized standards* (Technical protocols)

strong sanctioning mechanisms. This makes it easier for the major powers to use joint inducements and sanctions to cajole other actors into compliance.[25] If developing states form blocking coalitions within large IGOs, great powers will rely on club-based IGOs, such as the Organization for Economic Cooperation and Development (OECD) or the G-7, to form "coalitions of the willing" as a coercion mechanism.

When there is minimal divergence of preferences among states, great powers can be more confident in relying on universal-membership IGOs, such as the United Nations, for global governance. Universal IGOs can bring added legitimacy to an agreement. At the same time, however, great powers prefer to delegate the actual implementation of the regulatory regime to nongovernmental actors rather than IGOs. This is partly for functional reasons; NGOs plugged into public policy networks can have a comparative advantage in gathering information and harnessing the requisite technical expertise.[26] More importantly, the delegation to private actors also provides great powers a less-public and more-effective pathway of ensuring control over the regime's governance structure. Delegation eliminates the transaction costs that are inherent in a universal-membership IGO, particularly one that operates on a one-nation, one-vote principle. Governments can act like a board of directors: states devolve regime management to nonstate actors, while still ensuring that they can influence any renegotiation of the rules of the game.

If the bargaining core between the great powers is small to nonexistent, then global regulatory coordination is far less likely, and the enforcement regime for any proposed global standard will be nonexistent. The preferences of the peripheral states, however, help to determine the tactics of great powers, IGOs, and NGOs. If the peripheral states have moderate preferences, that is, within the zone of great-power preferences, then powerful states have an incentive to attract as many allies as possible as a way to enhance the legitimacy of their own standards. This could be accomplished in a number of ways. One op-

[25] Lisa L. Martin, *Coercive Cooperation* (Princeton, NJ: Princeton University Press, 1992); Daniel W. Drezner, "Bargaining, Enforcement, and Multilateral Economic Sanctions: When is Cooperation Counterproductive?" *International Organization* 54 (Winter 2000): 73–102.

[26] Ronald Mitchell, "Sources of Transparency: Information Systems in International Regimes," *International Studies Quarterly* 42 (March 1998): 109–131.

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tion would be to bring the issue to international bargaining fora in which the membership and the governance structure benefit their position. Another possibility is for great powers to apply their laws extraterritorially, coercing states to adopt their position. Regardless of the chosen strategy, the outcome is one of rival standards. Different fora or alliances will generate alternative sets of regulatory standards, with no clear standard accepted as international law. Nonstate actors may try to advocate for one set of global principles over another, but the divergence of great-power preferences will make such lobbying a largely futile exercise. Any international agreements that do emerge are unstable equilibria. Enforcing such standards on recalcitrant great powers will be next to impossible.

If peripheral states have immoderate preferences, then great powers will lack even the ability to attract natural allies from the periphery, reducing the number of possible bargaining arenas. One possible outcome in this distribution of preferences is the creation of "sham" standards. Governments agree to a notional set of standards with weak or nonexistent monitoring or enforcement schemes. Sham standards permit governments to claim the de jure existence of global regulatory coordination, even in the absence of effective enforcement. Another possible outcome is simple noncooperation, with states enforcing their own national standards. The great powers will try to propagate their preferred set of standards, but their influence will be limited to small, dependent allies.

In the absence of a bargaining core among great powers, NGOs that prefer to see more stringent global regulations can pursue three strategies. First, they can try to enhance the legitimacy of sham standards by engaging in enforcement activities, such as consumer boycotts or "naming and shaming" exercises against actors that violate standards. If this strategy is successful, states and/or firms pay a political price for violating these standards. Second, in the absence of genuine coordination, NGOs can generate their own "voluntary" codes and standards and apply consumer pressure on multinational corporations to adhere to them. If efforts at enforcement fail, they can at least act as monitors of corporate and state behavior.[27] Third, NGOs can act as lobbyists, cajoling core states into narrowing their set of preferences. These efforts can alter the behavior of marginal actors, but are unlikely to be a source of effective governance.

This model suggests that nonstate actors can play important roles in supplying global governance, but only under certain constellations of state interests. The effectiveness of IGOs declines as great power disagreements rise. The role and influence of nonstate actors vary widely from quadrant to quadrant. The salience of great-power preferences remains constant. The presence of a bargaining core among the great powers is a necessary condition for effective global governance.[28] If these states can reach a bargain, the outcome is effective

[27] Gary Gereffi, Ronie Garcia-Johnson, and Erika Sasser, "The NGO-Industrial Complex," *Foreign Policy* 125 (July/August 2001): 56–65.

[28] On the distinction between necessary and sufficient conditions in substitutability theory, see Gary Goertz, "Monitoring and Sanctioning in International Institutions: Nonsubstitutability and the Production of International Collective Goods." Paper presented at the workshop on Substitutability and World Politics, Penn State University, State College, PA, June 2002.

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TABLE 2

Possible Case Structures and Outcomes

Standards Situation	*Prominent Role for Great Powers?*	*Prominent IGO Role?*	*Prominent NGO Role?*	*Stable Coordination?*
Harmonized	No	No	Yes	Yes
Harmonized	No	Yes	Yes	Yes
Club	Yes	Yes	No	Yes
Club	Yes	Yes	Yes	Yes
Rival	Yes	Yes	Yes	No
Rival	Yes	No	Yes	No
Sham	No	Yes	Yes	No
Sham	Yes	No	Yes	No

policy coordination, regardless of the preferences or strategies of other actors. If these states have divergent preferences, then global governance is highly unlikely.

Employing Benjamin Most and Harvey Starr's concept of substitutability also makes it easier to understand why little progress has been made on this subject. The existing literature commits a number of methodological errors. First, those focusing on IGOs tend to treat all such organizations as the same type of actor. This overlooks the extent to which IGOs differ by membership and organizational structure. Great powers will engage in forum shopping to select the optimal IGO to advance their preferences. Second, those focusing on nonstate actors tend to confuse visibility with effectiveness. Activity by nonstate actors may be relevant to the regulatory outcome, or it may be epiphenomenal.

The failure to recognize the substitutability of governance structures and the presence of a bargaining core among the great powers as a necessary condition for regulatory coordination to take place also explains the murky empirical work on global governance. Table 2 shows a variety of possible case structures consistent with the model developed here. If a researcher is only interested in IGO or NGO activity, it is possible to show instances in which these actors are effective and instances in which they are not. This is also true of those trying to demonstrate the significance of great powers. Unless the distribution of interests and the substitutability of governance structures are taken into account, it is impossible to develop a model that garners significant empirical support.

When States Disagree about the Internet

The best example of a club standards outcome for Internet issues concerns IPR. Developed and developing countries have divergent preferences on this issue. Because most goods and services produced for the Internet are created in the advanced industrialized states, these countries have an incentive to enforce IPR. Developing countries prefer lax standards as a way of accelerating the transfer of technology and lowering the cost of acquiring new innovations and ideas.[29]

[29] Susan Sell, *Power and Ideas: North–South Politics of Intellectual Property and Antitrust* (Albany, NY: SUNY Press, 1998).

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The emerging international regulatory regime on this issue mirrors great-power preferences. In 1996, the World Intellectual Property Organization (WIPO) negotiated two treaties—one on copyrights and one on performances and phonograms—to cover online IPR. Experts agree that these treaties provide "strong" IPR protection.[30] These efforts came in the wake of American and European efforts to apply economic sanctions against countries with lax IPR regimes.[31] Furthermore, the key negotiating parties behind the Uruguay round of the GATT—the "quad" of the United States, Japan, Canada, and the European Union—strengthened the IPR regime by permitting member countries to use the WTO enforcement mechanism to enforce trade-related intellectual property (TRIP).[32] Statistical analyses demonstrate that the threat of WTO sanctions had a significant effect on copyright enforcement. Between 1995 and 2000, software piracy declined by nearly 20 percent in developing countries.[33] The WTO, reflecting great-power preferences, has made it clear that the growth of the Internet will not alter its enforcement of IPR: "The basic notions and principles of intellectual property have survived over a century of rapid economic, social, and technological change. The traditional objectives of the system as reflected in the current international norms are valid even in 'cyberspace.'"[34]

The regulation of data privacy is a good example of the rival-standards outcome. As more commerce is transacted over the Internet, there is increased concern about firms or governments taking advantage of the personal information of online consumers. Opinion polls show that privacy is the biggest concern of Internet users.[35] The European Union and the United States adopted different stances on the issue. The U.S. attitude toward privacy rights is based on freedom from state intervention; in Europe, privacy is considered a fundamental right to be protected by the state. As a result, there was no push in the United States for comprehensive regulation of data privacy. President Clinton's principal advisor for e-commerce, Ira Magaziner, stated his preference that "if the privacy protections by the private sector can be spread internationally, that will become the de facto way privacy is protected."[36]

In contrast, in 1995, the EU passed a sweeping Data Protection Directive that set clear guidance and enforcement mechanisms for European firms. The

[30] Catherine Mann, Sue Eckert, and Sarah Cleeland Knight, *Global Electronic Commerce: A Policy Primer* (Washington, DC: Institute for International Economics, 2000), 118.

[31] Sell, *Power and Ideas*, chapter 6.

[32] Jeffrey Schott, *The Uruguay Round: An Assessment* (Washington, DC: Institute for International Economics, 1994), 115.

[33] Kenneth Shadlen, Andrew Schrank, and Marcus Kurtz, "The Political Economy of Intellectual Property Protection." Paper presented at the American Political Science Association annual meeting, Boston, MA, August 29–September 1, 2002.

[34] WTO Secretariat, *Electronic Commerce and the Role of the WTO* (Geneva: World Trade Organization, 1998), 61.

[35] Haufler, *A Public Role for the Private Sector*, 84.

[36] Henry Farrell, "Constructing the International Foundations of E-Commerce." *International Organization* 57 (Spring 2003): 277–306.

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directive was to take effect in late 1998, and to ensure that firms did not evade the law by carrying out operations beyond the EU jurisdiction, the export of EU citizens' personal data to third countries with inadequate protection was banned.[37] This threat proved sufficiently potent for Australia, Canada, and Eastern European countries to revise their own laws in an attempt to comply with EU preferences.

Several nonstate actors tried to mediate a solution on the issue, with no success. Human rights groups lobbied the U.S. government to accept the EU regulatory position because it represented more-stringent protection of consumers.[38] A transnational business group, the GBDe, attempted to develop a common voluntary framework on data privacy. This effort failed miserably, with both U.S. and EU officials criticizing the final product.[39] Instead, the U.S. response was to encourage American multinationals to establish self-regulatory mechanisms that would meet EU standards. Sets of voluntary principles, such as those provided by TRUSTe and BBBOnline, were developed. At the same time, American and European negotiators agreed to a "safe harbor" compromise. The EU would not impose sanctions against U.S. firms that adhered to a voluntary standard consistent with the Data Protection Directive.

The safe harbor compromise went into effect in November 2000, but the EU (state-directed) and U.S. (self-regulation) approaches remain rival standards. Both TRUSTe and BBBOnline have taken steps to become transnational certifiers. At the same time, U.S. compliance with the EU directive remains uncertain. Few companies registered for the safe harbor in the year after the agreement went into effect. Furthermore, Federal Trade Commission studies show that U.S. firms do not enforce their own privacy principles.[40] In late 2001, one think tank concluded: "Although Safe Harbor is still in its infancy, its survival is already in doubt."[41] Henry Farrell's assessment of the situation perfectly characterizes the rival-standards outcome: "Both the US and EU sought to preserve and extend their domestic systems of privacy protection. Each sought, in effect, to dictate the terms under which privacy would be protected in the burgeoning sphere of international e-commerce."[42]

[37] William J. Long and Marc Pang Quek, "Personal Data Privacy Protection in an Age of Globalization: The U.S.-EU Safe Harbor Compromise." Paper presented at the International Studies Association annual meeting, New Orleans, LA, March 2002.

[38] Gregory Shaffer, "Globalization and Social Protection: The Impact of EU and International Rules in the Ratcheting Up of U.S. Privacy Standards," *Yale Journal of International Law* 25 (Winter 2000): 1–88.

[39] Maria Green Cowles, "Who Writes the Rules of E-Commerce?" AICGS Policy Paper #14, Johns Hopkins University, Baltimore, MD, 2001, 24.

[40] Marcus Franda, *Governing the Internet* (Boulder, CO: Lynne Reinner, 2001), 159.

[41] Aaron Lukas, "Safe Harbor or Stormy Waters? Living with the EU Data Protection Directive." Trade Policy Analysis No. 16, Cato Institute, Washington, DC, October 2001, 2. For a contrary view, see Dorothee Heisenberg and Marie-Helene Fandel, "Projecting EU Regimes Abroad: The EU Data Protection Directive as Global Standard." Paper presented at the annual meeting of the American Political Science Association, Boston, MA, August 29–September 1, 2002.

[42] Farrell, "Constructing the International Foundations of E-Commerce," 19.

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The regulation of Internet content—that is, censorship—neatly fits the outcome of sham standards. Governments have wildly divergent preferences regarding the extent to which Internet content should be regulated. Totalitarian governments such as Cuba or Saudi Arabia want absolute control over citizen access to the Internet. Authoritarian governments such as Singapore or China want to exploit the Internet's commercial opportunities while restricting the use of the Internet for political criticism. Liberal democracies also wish to place restrictions on offensive forms of content. These countries' definitions of objectionable content range from child pornography (the United States) to Nazi memorabilia (France). For this issue, there is no bargaining core among nation-states. The predicted outcome would be sham standards and the unilateral use of national regulation to bar undesired content.

Internet enthusiasts have long dismissed the ability of states to take this action. In 1993, John Gilmore, a cofounder of the Electronic Frontier Foundation, famously concluded: "The Net interprets censorship as damage and routes around it." However, the evidence strongly suggests that states can regulate Internet content when they so desire. Such efforts are never 100 percent effective, but that is a goal that few regulatory efforts achieve. As Jack Goldsmith observes: "If governments can raise the cost of Net transactions, they can regulate Net transactions."[43] In particular, governments have discovered that by pressuring Internet service providers, they can exercise significant control over access to content.

The result has been unilateral but successful examples of government regulation of Internet content. For totalitarian states, the modes of regulation have been crude but effective. Cuba simply outlaws the sale of personal computers to individuals; Myanmar outlaws personal ownership of modems.[44] Saudi Arabia censors the Internet by requiring all Web access to be routed through a proxy server that the government edits for content, blocking access to pornographic, religious, and politically sensitive material.[45] A recent assessment of the Saudi filtering system concluded that substantial amounts of Web content are "effectively inaccessible" from Saudi Arabia.[46]

Authoritarian states have succeeded in restricting political content on the Internet without sacrificing its commercial possibilities. Singapore regulates the Internet in the same way that it regulates print or broadcast media, effectively deleting what the government considers to be offensive or subversive mate-

[43] Jack Goldsmith, "Regulation of the Internet: Three Persistent Fallacies," *Chicago-Kent Law Review* 73 (December 1998): 1123.

[44] Robert Lebowitz, "Cuba Prohibits Computer Sales," Digital Freedom Network, 26 March 2002, accessed at http://dfn.org/news/somalia/sparse-internet.htm, 28 May 2002. Associated Press, "Internet Remains Prohibited in Myanmar," 3 May 2000, accessed at http://www.nua.com/surveys/?f=VS&art_id=905355752rel=true, 28 May 2002.

[45] Khalid Al-Tawil, "The Internet in Saudi Arabia," *Telecommunications Policy* 25 (September 2001): 625–632.

[46] Jonathan Zittrain and Benjamin Edelman, "Documentation of Internet Filtering in Saudi Arabia," Berkmen Center for Internet and Society, Harvard University, July 2002, accessed at http://cyber.law.harvard.edu/filtering/saudiarabia/, 4 September 2002.

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rial.[47] Singapore's approach has been the model for many East Asian governments, including China.[48] In July 2002, China was able to persuade more than 300 Internet service providers and web portals, including Yahoo!, to sign a voluntary pledge refraining from "producing, posting, or disseminating pernicious information that may jeopardize state security and disrupt social stability."[49]

As for the developed democracies, a French court succeeded in a legal effort to get Yahoo! to drop Nazi paraphernalia from its auction site. Because of the number of "mirror" servers that target Web sites to particular geographic areas, governments have the means to censor the national content of the Web without globally censoring the distribution of information. Unilateral content regulation has succeeded despite the strong normative consensus among Internet enthusiasts against such regulation.[50] The September 11 terrorist attacks and the terrorists' use of the Internet to communicate with each other have only accelerated the pace of content regulation in the developed world. In September 2002, one advocacy group concerned with press freedom noted, "The United States, Britain, France, Germany, Spain, Italy, Denmark, the European Parliament, the Council of Europe and the G8 nations have all challenged cyber-freedoms over the past year."[51]

Human rights NGOs have protested these disparate national efforts to curb Internet content, but this has not led to the creation of any effective system of global governance on the matter. IGOs have been largely hamstrung by the extreme distribution of state preferences over content regulation. This was reflected in the first meeting of the World Summit on the Information Society (WSIS), held in December 2003. One of the key sticking points at this meeting was the language regarding the extent to which any agreement would affect the regulation of speech on the Internet. China, in particular, protested the U.S.-inspired language regarding press freedoms. As a result, although language was inserted into the Declaration of Principles that specifically addressed press freedoms, it was heavily watered down, and language reaffirming state sovereignty was also added.[52] Outside observers agreed that the language papered over irreconcilable differences about content regulation, and that the plan of action provides little guidance for the future.[53]

[47] Garry Rodan, "The Internet and Political Control in Singapore," *Political Science Quarterly* 113 (Spring 1998): 63–89.

[48] Georgette Wang, "Regulating Network Communication in Asia," *Telecommunications Policy* 23 (April 1999): 277–287; Shanthi Kalathil, "China's Dot-Communism," *Foreign Policy* 122 (January/February 2001): 74–75.

[49] Christopher Bodeen, "Web Portals Sign China Content Pact," Associated Press, 15 July 2002.

[50] Human Rights Watch, "Free Expression on the Internet," accessed at http://www.hrw.org/advocacy/internet/, 25 May 2002.

[51] Reporters Without Borders, "The Internet on Probation," September 2002, accessed at http://www.rsf.fr/IMG/doc-1274.pdf, 6 September 2002.

[52] World Summit on the Information Society Declaration of Principles, Document WSIS-03/GENEVA/DOC/4-E, 12 December 2003, paragraph 18. The document can be accessed at http://www.itu.int/wsis/; Kieren McCarthy, "Internet Showdown Side-stepped in Geneva," *The Register Newsletter*, 8 December 2003.

[53] David Souter, "The View from the Summit: A Report on the Outcomes of the World Summit on the Information Society," *Info* 6 (January/February 2004): 6–11.

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For each of the issue areas in question, governments have divergent preferences regarding the content of Internet regulation. The resulting global governance structures vary in effectiveness, depending on the distribution of state power. The enforcement of IPR on the Internet has succeeded because the great powers have similar preferences and have been willing to coerce recalcitrant states into compliance. When great powers disagree—over privacy rights—the outcome is the absence of a stable international regime. When all states have divergent preferences, as in the censorship case, the result is effective unilateral steps to regulate access to the Internet. Two facts about these issues are particularly salient. First, nonstate actors have been unable to influence government preferences on these issues. Second, when necessary, governments of every stripe have been willing to disrupt or sever Internet traffic in order to ensure that their ends are achieved.

Global Governance of Internet Technical Protocols

The economics of technical standards on the Internet are a classic example of network externalities at work, in that a standard's utility corresponds directly to the number of consumers using it. For the Internet to be useful for informational and commercial purposes, producers need to agree on the technical protocols that permit users to successfully transmit and access data. Although common protocols create obvious public goods, such standards can also reap disproportionate benefits for actors that either own the standards in a proprietary fashion or have first-mover advantages in exploiting those standards.[54] Because of the huge network externalities that are evident in the Internet, however, we would expect a large bargaining core among states, leading to a harmonized standards outcome.

Popular and scholarly histories of the Internet argue that the technical protocols were created by an epistemic community of computer experts who belonged to the IETF, and that no government could thwart this outcome.[55] A closer look at the origins of these protocols and the regimes for managing them suggests a rather different picture. At two crucial junctures in the growth of the Internet—the acceptance of the Transmission Control Protocol/Internet Protocol (TCP/IP) for exchanging information across disparate computer networks, and the creation of the ICANN regime for governing the Internet Domain Name System (DNS)—governments took active steps to ensure that the outcome serviced their interests and that the management regime remained private but amenable to state interests. In the first episode, governments acted in concert to prevent computer firms from acquiring too much influence over the setting of standards; in the second episode, they acted to prevent particular NGOs and IGOs from acquiring too much influence.

[54] Carl Shapiro and Hal Varian, *Information Rules* (Cambridge, MA: Harvard Business School Press, 1999), 174.

[55] Katie Hafner and Matthew Lyon, *Where Wizards Stay Up Late* (New York: Simon & Schuster, 1996); Mayer-Schönberger and Hurley, "Globalization of Communication," 135–154.

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TCP/IP was developed between 1973 and 1978 by members of the Advanced Research Projects Agency Network (ARPANET), the Defense Department's network that connected civilian and military research complexes. The protocols were designed so as to permit interoperability between disparate hardware systems. TCP is responsible for packing and unpacking data such that they can be transferred from one computer to another; IP is responsible for ensuring that data are routed to the appropriate recipients. To use a postal analogy, TCP is the functional equivalent of the envelope, and IP is the functional equivalent of the address/ZIP code on the envelope.

TCP/IP placed minimal code demands on new entrants to the network, which was consistent with the research community's norm of open access.[56] However, this was also consistent with U.S. government preferences as well. According to Marcus Franda, the Defense Department embraced TCP/IP because "it lengthened the odds that when networks were less reliable (under conditions of war, for example), they might still be functional using TCP/IP."[57]

Although Defense Department and ARPANET constituents favored the TCP/IP protocol, other networks did not rely on it. The actors behind these alternative networks had different motivations. Companies with investments in computer networks preferred developing their own proprietary standards, so as to reap the pecuniary rewards of managing their own networks.[58] By the mid-seventies, Xerox was pushing Xerox Network Systems (XNS), Digital was marketing Digital Equipment Corporation's Digital Network Architecture (DECNET), and IBM was promoting its System Network Architecture (SNA) to its government buyers. As Ben Segal describes the environment, "The variety of different techniques, media and protocols was staggering; open warfare existed between many manufacturers' proprietary systems, various home-made systems, and the then rudimentary efforts at defining open or international standards."[59] In other words, TCP/IP was far from the de facto standard when the standards debate of the 1970s started, and it faced strong opposition from corporate actors.

The major economic powers feared the prospect of being held hostage to a firm's ownership of the dominant network protocol. This was particularly true for states with government monopolies of the telecommunications sector. This concern was not unfounded. In 1975, IBM refused a Canadian government request to develop a protocol that could interface with non-IBM hardware systems. Instead, the corporation urged Canada to accept IBM's proprietary SNA network protocol. In 1978, the French government issued a report warning other European governments: "If IBM became master of the network market, it would have a share—willingly or unwillingly—of the world power structure."[60]

[56] Will Foster, Anthony Rutkowski, and Seymour Goodman, "Who Governs the Internet?" *Communications of the ACM* 40 (August 1997), 17–18.

[57] Franda, *Governing the Internet*, 23.

[58] Ibid., 24; David Passmore, "The Networking Standards Collision," *Datamation* 31 (February 1985): 105.

[59] Ben Segal, "A Short History of Internet Protocols at CERN," April 1995, accessed at http://wwwinfo.cern.ch/pdp/ns/ben/TCPHIST.html, 2 May 2002.

[60] Janet Abbate, *Inventing the Internet* (Cambridge, MA: MIT Press, 1999), 153, 172.

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There were two international responses to this threat. The first was a concerted effort by Canada, Britain, and France to develop a nonproprietary standard, called Recommendation X.25, for the Consultative Committee on International Telegraphy and Telephony (CCITT) of the International Telecommunications Union (ITU), a universal-membership IGO. Created in less than six months, X.25 was designed as a public standard freely available to all private firms. The ITU approved the standard in 1976; the French, Japanese, and British governments immediately adopted X.25 as the standard for their government networks. Because of the significance of these markets for producers, IBM, Digital, and Honeywell reluctantly agreed to offer X.25-compatible software on their computers in addition to their own proprietary standards. As Janet Abbate concludes: "X.25 was explicitly designed to alter the balance of power . . . and in this it succeeded. Public data networks did not have to depend on proprietary network systems from IBM or any other company."[61]

The CCITT initiative was a successful holding action that prevented the emergence of a norm for proprietary standards. The second and more significant initiative was the push by the United States, the UK, France, Canada, and Japan to have the International Organization for Standardization (ISO)—an NGO of technical standard setters—develop compatible network standards for both private and public uses. This push was unusual, in that ordinarily the ISO declared an official standard only after there was a rough consensus among producers. In advocating a role for the ISO at an earlier stage, the major economic powers were clearly trying to accelerate the creation of an international regime consistent with their preferences.

This initiative resulted in the 1978 creation of the Open Systems Interconnection (OSI) model. OSI is not so much a standard as a metastandard, a minimal architecture through which disparate network protocols can communicate with one another. Abbate summarizes OSI's qualities and purpose: "The OSI standards would be publicly specified and nonproprietary, so that anyone would be free to use them; the system would be designed to work with generic components, rather than a specific manufacturer's products; and changes to the standards would be made by a public standards organization, not by a private company."[62]

The creation of OSI had two significant effects on the development of common standards. First, because of the wide ISO membership and the rapid acceptance of its standards, it became prohibitively expensive for any state or firm to create a protocol that was incompatible with OSI. The great powers were particularly enthusiastic about OSI. European governments liked it because it gave their computer producers a chance to compete with IBM, Digital, and other American producers.[63] The U.S. government liked OSI because it was consistent with its preferences for nonproprietary, open source coding.[64]

[61] Ibid., 166–167.

[62] Janet Abbate, "Government, Business, and the Making of the Internet," *Business History Review* 75 (Spring 2001): 163.

[63] Franda, *Governing the Internet*, 39.

[64] Hafner and Lyon, *Where Wizards Stay Up Late*, 236–237.

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Second, because OSI stressed openness and accessibility, the TCP/IP code fit more seamlessly with the OSI framework than with other proposed protocols, including X.25. Furthermore, with the ISO as the location for managing network standards, the U.S. government strongly encouraged ARPANET participants to actively participate in ISO committees and meetings, in order to get the TCP/IP protocol accepted as consistent with the OSI framework.[65] By 1984, the ISO had officially recognized TCP/IP as consistent with OSI principles. Because TCP/IP was already widely used in the United States and considered reliable, it became the de facto standard as the Internet grew in size, a classic example of historical "lock-in."[66]

Members of the Internet community often argue that the failure of X.25 or OSI to replace TCP/IP is an example of states being unable to regulate cyberspace.[67] This argument is factually correct but misses the primary motivation of both ventures. The chief concern of both the ITU and ISO initiatives was not to replace TCP/IP but to ward off corporate attempts to lock in a dominant proprietary standard for network protocols. If governments had not intervened, the probable outcome would have been a system of proprietary network protocols. The actual outcome reflected the preferences of governments. Furthermore, consistent with the model presented here, states relied on a universal-membership IGO to boost legitimacy and delegated a nonstate actor to manage the actual standards.

The second government intervention over technical protocols came two decades later. As the commercial possibilities of the Internet and World Wide Web emerged in the early nineties, all of the relevant actors recognized the need to create a more robust regime to manage the DNS for unique Internet addresses. The DNS is responsible for creating unique identifiers for each individual Internet address. This includes, among others, the valued general Top Level Domains (gTLDs), such as .com, .org, or .edu, as well as the country code Top Level Domains (ccTLDs), such as .de or .uk.

There were three reasons for concern about DNS management. First, Internet commentators agreed that the DNS system represented an excellent focal point through which an actor could control access to the Internet.[68] Second, actors with valued trademarks were concerned about the possibility of "cybersquatters" acquiring valuable addresses, such as www.burgerking.com or www.nike.com. Third, there were significant commercial opportunities in managing the DNS system. Between 1994 and 1998, the U.S. government contracted the DNS registry to Network Solutions Incorporated (NSI). That monopoly was estimated in 1996 to be worth $1 billion to NSI.[69]

[65] Abbate, *Inventing the Internet*, 174–178.

[66] W. Brian Arthur, "Competing Technologies, Increasing Returns, and Lock-In By Historical Events," *Economic Journal* 99 (March 1989): 116–131.

[67] Martin Libicki et al., *Scaffolding the New Web: Standards and Standards Policy for the Digital Economy* (Arlington, VA: RAND Corporation, 2000).

[68] Lawrence Lessig, *Code and Other Laws of Cyberspace* (New York: Basic Books, 1999).

[69] Franda, *Governing the Internet*, 49.

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The first efforts to develop an international regime to reform the DNS system came from nonstate actors, particularly the ISOC, a network of researchers responsible for developing and managing the original ARPANET. After repeated false starts, ISOC formed the International Ad Hoc Committee (IAHC) to develop a proposal to manage domain names in lieu of NSI. The IAHC was an eminent persons group, with representatives from ISOC, the International Trademark Association, WIPO, and the ITU. The ITU was particularly eager to be involved, and viewed itself as the natural location for an international regime to manage these issues.[70]

The result of this process was a memorandum of understanding (MOU) among the IAHC parties on gTLDs (gTLD-MOU). The gTLD-MOU proposed assigning governance functions to an entity housed in the ITU, with representation from business interests, IGOs, and ISOC. The ITU arranged a "formal" signing ceremony in Geneva in March 1997 to give the agreement the trappings of an international treaty. This process neatly fits the definition of an epistemic community.[71] Furthermore, the actors involved in the creation of the gTLD-MOU—IGOs, business constituencies, and technical experts—are precisely the actors emphasized in the globalization literature on how the Internet would affect global governance.

The gTLD-MOU immediately ran into opposition from two groups. Governments strongly protested the agreement. The U.S. secretary of state wrote a memo blasting the ITU secretariat for acting "without authorization of member governments" and "concluding with a quote international agreement unquote."[72] European Union governments opposed the agreement because it was deemed too U.S.-centric. The proposal also ran into opposition from a significant fraction of Internet enthusiasts. They criticized the proposed governance structure as lacking in democratic accountability and as too solicitous of corporate concerns.

The IAHC proposal spurred President Clinton to issue a July 1, 1997 executive order authorizing the commerce secretary to "support efforts to make the governance of the domain name system private and competitive."[73] Presidential advisor Ira Magaziner was put in charge of the initiative, underscoring the high priority the United States gave to settling the issue. U.S. preferences on the issue were clear: to have a nonstate actor—rather than a universal-membership IGO such as the ITU—manage the DNS regime. Magaziner stated publicly: "As the Internet grows up and becomes more international, these technical management questions should be privatized, and there should be a stakeholder-based, *private international organization* set up for that technical management. In the allocation of domain names, we should, where it is possible, create a competitive marketplace to replace the monopoly that now exists."[74]

[70] Milton Mueller, "ICANN and Internet Governance," *Info* 1 (December 1999): 501.

[71] Renee Marlin-Bennett, "ICANN and the Global Digital Divide." Paper presented at the International Studies Association annual meeting, Chicago, IL, February 2001, 4.

[72] Quoted in Mueller, "ICANN and Internet Governance," 502.

[73] Ibid.

[74] Ira Magaziner, "Creating a Framework for Global Electronic Commerce," July 1999, accessed at http://www.pff.org/ira_magaziner.htm, 10 June 2002 (my italics).

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Given the ITU's one-nation, one-vote structure, and the secretariat's eagerness to independently manage the issue area, it is not surprising that the United States wanted to switch fora. Historically, the United States has shifted governance of new issue areas away from the ITU in order to lock in its own preferences.[75] Magaziner made the U.S. opposition to an ITU role quite explicit when he stated, "Technical management certainly should not be controlled by an intergovernmental organization or international telecommunications union."[76]

The European Union also wanted three significant changes to the IAHC proposal. The EU commission insisted that the WIPO be involved in any governance structure. This was a hedge against U.S. trademark law being imposed by fiat. The Europeans agreed with the U.S. government that the NSI monopoly of the gTLD registries had to be broken up. The European motivation for this, however, was preventing total U.S. dominance of the Internet. Finally, there was a desire for a formal governmental channel between any private order and governments. This was considered especially relevant to the management of the ccTLDs. The United States was sensitive to these concerns, and promised that there would be a significant number of Europeans on any Internet governance board.[77]

In June 1998, the Commerce Department issued a white paper that officially rejected the gTLD-MOU process and advocated privatization of the DNS system based on four principles: stability, competition, private bottom-up coordination, and representation.[78] There were two reactions to the white paper. Among Internet enthusiasts, a series of self-organized conferences, called the International Forum on the White Paper (IFWP) was held, with the idea of providing citizen feedback to the U.S. proposal.[79] Many people dubbed the IFWP an "Internet constitutional convention." Although U.S. government representatives attended IFWP meetings, there is considerable evidence demonstrating that the IFWP process had no effect on the policy outcome.[80] This was because ISOC, American, and European Union officials were simultaneously negotiating the exact contours of what a private Internet regime would look like.

The result was ICANN. While ICANN was incorporated by key members of ISOC, the resulting governance structure accommodated both U.S. and European concerns. A government advisory committee was created to act as a conduit for government concerns. The NSI monopoly of gTLDs was broken, and the ITU was given only a peripheral role in the new regime. A significant fraction of ICANN's governing board consisted of non-Americans. Renee Marlin-Bennett summarizes the outcome in the following way: "In the creation of ICANN, the United States government clearly indicated that it did not wish

[75] Krasner, "Global Communications and National Power."

[76] Magaziner, "Creating a Framework," 13.

[77] Mueller, "ICANN and Internet Governance," 505.

[78] "Management of Internet Names and Addresses (White Paper)," *Federal Register* 111, no. 63, accessed at http://www.ntia.gov/ntiahome/domainname/6_5_98dns.htm, 20 May 2002.

[79] Available at http://www.domainhandbook.com/ifwp.html, accessed 7 June 2002.

[80] Mueller, "ICANN and Internet Governance," 506–508; Franda, *Governing the Internet*, 53–55.

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the International Telecommunications Union to be that source of governance. But neither did the U.S. government take responsibility for it itself. What resulted was a particularly unusual international organization: a private entity designed to make rules for a global Internet."[81]

While ISOC's wish to manage the DNS system was granted, after a fashion, the negotiating history of ICANN shows that the key actors were states.[82] It was the U.S. government that rejected the IAHC process, shut out the ITU from the process, and ensured the creation of a private order to manage the policy issue.[83] European, Japanese, and Australian governments ensured that the eventual regime would not be dominated by the United States. The key governments vetted the initial roster of ICANN's governing board. In contrast, elements of global civil society were largely shut out of the process. Milton Mueller concludes, "The process of forming ICANN has been mired in so much factionalism and political controversy that references to 'consensus-based' self-regulation are laughable."[84]

ICANN's history since its 1998 creation only underscores these conclusions. Nonstate actors out of the ISOC loop have vigorously protested ICANN's governance structure and lack of openness to outside input. In contrast to claims that the Internet would foster greater democratic participation, many individuals have protested at the travel costs of attending ICANN's meetings. Meetings are not widely available on the Web. More generally, its detractors label ICANN as undemocratic and unresponsive, and a threat to the more-decentralized culture of the Internet.[85]

Key governments have been consistent in ensuring their influence and in preferring stability over representation. A year after granting DNS governance to ICANN, the U.S. government publicly stated: "The Department of Commerce has no plans to transfer to any entity its policy authority to direct the authoritative root server."[86] In April 2002, a Commerce official explained the U.S. government's influence over ICANN in this way: "We do have a contractual relationship with them, which we have the ability to modify, or, if we want, terminate. That is how our input comes into the process."[87]

[81] Marlin-Bennett, "ICANN and the Global Digital Divide," 5.

[82] One question is why ISOC members were given such a prominent role in the ICANN regime, given their prominence in the gTLD-MOU fiasco. One answer is that Magaziner respected ISOC and IETF's prior background in developing technical standards. Between ISOC's proven ability to develop successful standards and ISOC's critics, who had no such experience, Magaziner went with ISOC. See Farrell, "Constructing the International Foundations of E-Commerce," 14–15.

[83] A. Michael Froomkin, "Wrong Turn in Cyberspace: Using ICANN to Route Around the APA and the Constitution," *Duke Law Journal* 50 (2000): 17–184.

[84] Mueller, "ICANN and Internet Governance," 498.

[85] See www.ICANNwatch.org for a web site devoted to these criticisms.

[86] Quoted in Mueller, "ICANN and Internet Governance," 515.

[87] Quoted in Susan Stellen, "Plan to Change Internet Group is Criticized as Inadequate," *New York Times*, 1 April 2002.

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At the same time, U.S. and European preferences on the matter have been carried out. Since ICANN's creation, competition to provide domain name services has increased, prices have fallen, and trademark disputes have been settled more quickly.[88] ICANN's own governing body has also indicated its eagerness to cater more to government preferences. ICANN currently lists as one of its core values: "Act with sensitivity to the public interest and related governmental concerns, so that *the need for direct governmental action is minimized.*"[89] In February 2002, ICANN's president, Stuart Lynn, proposed reforming its structure by having national governments explicitly nominate five members of ICANN's governing board. In defending the proposal against charges from critics, Lynn commented, "Our mission is not to run an exercise in global democracy. I happen to think we need to be a private organization."[90] Most of Lynn's proposals were approved in June 2002.[91]

Had the great powers not intervened, the outcome in this case would have been significantly different from ICANN. The ISOC initially wanted to expand the number of gTLDs to fifty. The management of the DNS system would have been housed in the one-country, one-vote ITU, rather than in a private, nonprofit organization. The percentage of Americans running the regime would have been larger. This case demonstrates that nonstate actors have agenda-setting powers. However, once an issue comes to the attention of states, the outcome will reflect great-power preferences.

In both the protocol wars of the 1970s and the creation of ICANN in the 1990s, government preferences were consistent. The great powers repeatedly acted to ensure that the Internet would be governed so as to maximize efficiency without giving monopoly power to any one actor, be it a multinational firm, a nonstate organization, or an IGO secretariat. In the 1970s, governments acted with Internet enthusiasts to ensure that multinational firms would not develop their own proprietary network protocols. In the 1990s, governments acted in concert with multinational firms to prevent NGOs and IGOs from overstepping their policy authority. In both instances, governments delegated regime management to nongovernmental international organizations—ISO and ICANN—to ensure efficient outcomes and to retain their influence over future policy shifts.

Rethinking Globalization and Global Governance

The globalization literature argues that the lowering of traditional barriers to exchange, the exponential growth of the Internet, and the rise of networked nonstate actors conspire to weaken the state's role in global governance. The

[88] Lisa M. Bowman, "ICANN Comes Under Fire—Again." Cnet News.com, 1 April 2002, accessed at http://news.zdnet.co.uk, 2 April 2002.

[89] Committee on ICANN Evolution and Reform, "ICANN: A Blueprint for Reform," 20 June 2002, accessed at http://www.icann.org/committees/evol-reform/blueprint-20jun02.htm, 10 September 2002 (my italics).

[90] Quoted in Bowman, "ICANN Comes Under Fire—Again."

[91] Susan Stellin, "Internet Address Group Approves Overhaul," *New York Times*, 29 June 2002, C4.

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globalization literature is wrong; states are still the primary actors. Furthermore, in focusing on the binary question of state power versus nonstate power, these scholars have glossed over the diversity of relationships that can exist between heterogeneous actors in world politics. A recognition of the substitutability of global governance structures gives us a more powerful lens with which to observe the ramifications of globalization. A review of Internet governance demonstrates that even when states prefer to let private actors take the governance lead, they will intervene to advance their desired ends.

States may be the primary actors, but they are not the only actors. The case studies clearly show that nonstate actors can affect outcomes through their technical expertise and agenda-setting abilities. However, only by giving the great powers pride of place is it possible to set the conditions under which nonstate actors will exercise their influence. This finding is consistent with previous work that suggests that the provision of collective goods at the national or local level involves a complex distribution of governance functions among actors representing the state, the market, and civil society.[92]

By failing to recognize that states can substitute unilateral measures, intergovernmental accords, and delegation to nonstate actors, scholars of global governance have unnecessarily restricted their analyses to simple comparisons of direct state involvement versus the role of nonstate actors. This is particularly true of the delegation option. Unless delegation is recognized as a conscious state choice, researchers inevitably miscode such variables as state power. The value-added of the substitutability concept is that it permits the development of more generalizable theories. As Benjamin Most and Harvey Starr point out, "If scholars are genuinely interested in understanding why states do what they do, they need to move beyond efforts to focus separately on particular concrete behaviors. Rather than asking middle-range questions about specific empirical phenomena, they should begin with the initial 'grand' question with which they were allegedly concerned in the first place."[93] Ironically, globalization scholars have erred not in thinking too grandly about global governance, but in not thinking grandly enough.*

[92] Elinor Ostrom, *Governing the Commons: The Evolution of Institutions for Collective Action* (Cambridge, MA: Cambridge University Press, 1990).

[93] Most and Starr, "International Relations Theory," 392.

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Electoral Reform and Partisan Jugglery

PETER H. ARGERSINGER

The degree to which a relentless partisanship determined the controversial presidential election of 2000 surprised many Americans. Particularly troubling was that as one political scientist noted, "there seemed to be more partisanship after people voted than before." This partisanship engulfed the application and interpretation of election laws and procedures; it figured transparently in the actions of state election officials, such as Florida's Secretary of State, Katherine Harris; it prompted the Republican legislature of Florida to take steps toward the appointment of the state's electors; and it caused the ideological acrobatics of politicians mandating by law hand recounts in one state while blocking them by lawsuits in another, piously claiming to protect the right to vote while obstructing the counting of ballots, insisting on state authority while invoking federal judicial activism, and advancing innovative interpretations of the equal protection clause of the Constitution in order to suppress its actual operation. Other features of the election seemed no less novel, especially that of the election of a president who received fewer popular votes than his opponent but who benefited from the structural biases of the electoral college system; the lengthy time after the election before a winner could be ascertained; the intervention of the United States Supreme Court in the election process; and the disqualification of many ballots because of the peculiarities of different voting procedures, the incompetence of voting officials, and outright fraud and intimidation. Even more-sophisticated scholarly observers, who recognized that some striking aspects of the 2000 election, such as denying equal access to minority voters, "had an all-too-familiar ring to them," regarded the "butterfly ballot" and other features of balloting technology and electoral behavior as "uncommon," "unanticipated," and "unexpected."[1]

[1] For a sampling of scholarly reactions, see "What We'll Remember in 2050: 9 Views on Bush v. Gore," *Chronicle of Higher Education*, 5 January 2001, B15; and the entire issue of *PS: Political Science and Politics*, 34 (March 2001).

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At the least, nearly all Americans seemed to agree that the election guaranteed that significant electoral reforms would be forthcoming, and by early 2001, more than 1,500 reform bills had been introduced in state legislatures. Many dealt with voting technology, including the use of optical scanning equipment. Others aimed at larger changes in the institutional context in which elections are imbedded, such as improving the nation's wretched voter registration systems, mandating instant run-off voting, and, especially, modifying or even abolishing the electoral college, the last course endorsed by nearly two to one in a *Newsweek* poll in the aftermath of the election.[2]

But none of these developments were unprecedented. The presidential election of 2000 merely introduced Americans of the new millennium to a variety of electoral issues that were well known in the nineteenth century but largely ignored in the twentieth. The election of Republican presidents who had received a minority of the popular vote, in 1876 and 1888 as in 2000, both stemmed from and sparked partisan conflict in a highly competitive political setting and produced popular debate over the legitimacy of the electoral system and the reality of American democracy.

The most dramatic attempt to resolve such conflicts and issues in the 1890s, Michigan's Miner Law of 1892, commanded great public attention at the time but has since been nearly completely overlooked by both political scientists and historians. The extensive literature on the electoral college is more often theoretical or statistical than historical, and even in their standard surveys of efforts at electoral college reform, Lawrence D. Longley and Neal R. Peirce neglect the particular context, the political importance, and even the name of the Miner Law, merely noting the landmark Supreme Court case to which it led. Historians have done no better, and the foremost modern accounts of the political history of the period ignore it completely.[3] And yet, as a case study in the complexities of electoral reform, the Miner Law is invaluable. Its fate in the 1890s, unfortunately, permits little optimism now about reforming the electoral system to ensure democracy and to avoid crises in the years to come—especially given the more-responsible and less-partisan role then played by the nation's judiciary. For in a competitive political situation, partisanship determines the enactment, implementation, and reform of the nation's election laws.

The Institutional Context

In the late nineteenth century, as in the 2000 election, a national electorate closely balanced between Republicans and Democrats, the existence of small third

[2] Dana Canedy, "Florida Leaders Sign Agreement for Overhaul of Election System," *New York Times*, 4 May 2001; Howard Fineman, "A Whiff of Victory . . . But Now It's War," *Newsweek*, 20 November 2000, 15.

[3] Neal R. Peirce and Lawrence D. Longley, *The People's President: The Electoral College in American History and the Direct Vote Alternative* (New Haven, CT: Yale University Press, 1981), 91, 94; Lawrence D. Longley and Neal R. Peirce, *The Electoral College Primer* (New Haven, CT: Yale University Press, 1996), 95, 99; Robert W. Cherny, *American Politics in the Gilded Age, 1868–1900* (Wheeling, IL: Harlan Davidson, 1997); R. Hal Williams, *Years of Decision: American Politics in the 1890s* (New York: John Wiley, 1978).

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parties, and the structural features of the electoral college together resulted in the election of minority presidents by a few pivotal states. Under the prevailing at-large or general ticket system, a plurality (however small) of the popular vote of a state controlled all the state's electoral votes, and the minority was effectively disfranchised in presidential elections. For four consecutive elections, beginning in 1876, the national result depended upon a single state's outcome, and in three of those elections, the final outcome was not known for several days or even, in 1876, several months. Republicans generally held the advantage in this near stalemate, for by narrowly adding a Northern swing state such as New York, Connecticut, or Indiana to their usually dependable base in New England and the Midwest, they could offset the Democrats' powerful control of the Solid South and substantial popularity elsewhere. Given the geographic distribution of party voters, in short, the electoral college biased presidential elections to the advantage of Republicans and the disadvantage of Democrats.

Political scientists have long devoted considerable effort to analyzing the operation of the electoral college, including its systematic biases, which work to the advantage of some states, voters, and parties and to the disadvantage of others, as well as its potential to elect minority presidents, provoke popular anger, and produce constitutional crises.[4] But American political leaders of the nineteenth century fully knew and strategically acted upon these biases and their implications. Scholars investigating the influence of the structural features of American politics have increasingly described how the electoral framework in the third party system powerfully affected legislative, administrative, and political decision making, ranging from narrow questions about specific administrative actions and policy developments to broader issues involving attitudes toward government activism, institutional reform, and, of course, campaign strategies.[5]

[4] See, for example, Lawrence D. Longley and James D. Dana, "The Biases of the Electoral College in the 1990s," *Polity* 25 (Fall 1992): 123–145; Elizabeth P. McCaughey, "Democracy at Risk: The Dangerous Flaws in the Electoral College," *Policy Review* 63 (Winter 1993): 79–81; Matthew Hoffman, "The Illegitimate President: Minority Vote Dilution and the Electoral College," *Yale Law Journal* 105 (January 1996): 935–1021.

[5] See, for example, Haywood T. Sanders, "Paying for the 'Bloody Shirt': The Politics of Civil War Pensions" in Barry Rundquist, ed., *Political Benefits: Empirical Studies of American Public Programs* (Lexington, MA: Lexington Books, 1980), 137–159; Charles Stewart III and Barry Weingast, "Stacking the Senate, Changing the Nation: Republican Rotten Boroughs, Statehood Politics, and American Political Development," *Studies in American Political Development* 6 (Fall 1992): 223–271; Scott C. James, "A Party System Perspective on the Interstate Commerce Act: The Democracy, Electoral College Competition, and the Politics of Coalition Maintenance," *Studies in American Political Development* 6 (Spring 1992): 163–200; Scott C. James and Brian L. Lawson, "The Political Economy of Voting Rights in America's Gilded Age: Electoral College Competition, Partisan Commitment, and the Federal Election Law," *American Political Science Review* 93 (March 1999): 115–131; Peter H. Argersinger, "The Transformation of American Politics: Political Institutions and Public Policy, 1865–1910" in Byron E. Shafer and Anthony J. Badger, eds., *Contesting Democracy: Substance and Structure in American Political History, 1775–2000* (Lawrence: University Press of Kansas, 2001), 117–147.

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The 1888 presidential election illustrated well the effects of electoral structure on party activities, both in shaping campaign practices and in provoking demands for institutional reforms. The Republicans strategically devoted their campaign resources to the competitive swing states of New York and Indiana, carrying the first by only 14,373 votes and the second by 2,376 votes, and were able to place Benjamin Harrison in the White House despite his Democratic opponent, Grover Cleveland, polling more popular votes nationally. Moreover, their grim determination to capture Indiana's electoral votes was revealed when the press exposed the treasurer of the Republican national committee urging Indiana party officials to undertake vote buying and other illegal electoral practices.[6]

In the aftermath of the election, demands arose for change in what was perceived as an inequitable and undemocratic electoral system. Building upon popular outrage over reports of flagrant electoral corruption, reformers achieved substantial success in what today is called voting technology. States rapidly adopted the Australian or official ballot, replacing the party ticket system so susceptible to election fraud and voter intimidation. Similarly, the most likely reform in the wake of the 2000 election involves updated voting machines in place of crude devices such as butterfly ballots, which had their exact parallel in the "bogus ballots" of the 1880s, in that people voted for someone other than they wanted to because of the format of the ballot.[7] But Americans in the nineteenth century also were determined to deal with the larger issues of the electoral structure, especially that posed by the electoral college mechanism that allowed the election of minority presidents regardless of voting technology.

Farm and labor organizations took the lead in calling for the direct popular election of the president "instead of the monarchical style of the Electoral College," as one Los Angeles labor paper declared. Radical third parties also advocated popular election and the abolition of the electoral college, and some of their leaders developed or adopted sophisticated proposals for instant runoff

[6] The question of election fraud in the nineteenth century is a controversial one among scholars, but see Peter H. Argersinger, "New Perspectives on Election Fraud in the Gilded Age," *Political Science Quarterly* 100 (Winter 1985–86): 669–687; Howard W. Allen and Kay Warren Allen, "Vote Fraud and Data Validity" in Jerome M. Clubb, William H. Flanigan, and Nancy H. Zingale, eds., *Analyzing Electoral History: A Guide to the Study of American Voting Behavior* (Beverly Hills, CA: Sage Publications, 1981), 153–193; Walter Dean Burnham, "Those High Nineteenth-Century American Voting Turnouts: Fact or Fiction?" *Journal of Interdisciplinary History* 16 (Spring 1986): 613–644; Gary W. Cox and J. Morgan Kousser, "Turnout and Rural Corruption: New York as a Test Case," *American Journal of Political Science* 25 (November 1981): 646–663. For the 1888 election itself, see James Baumgardner, "The 1888 Presidential Election: How Corrupt?" *Presidential Studies Quarterly* 14 (Summer 1984): 416–427, which unfortunately confuses many of the issues and overlooks much of the evidence on election fraud but which effectively emphasizes the parties' strategic response to electoral college competition.

[7] For the party ticket system, including bogus ballots, and efforts to reform it, see Peter H. Argersinger, *Structure, Process, and Party: Essays in American Political History* (Armonk, NY: M.E. Sharpe, 1992), 47–50, 52–57, 122–149. The Australian ballot, of course, did not end but merely changed the nature of partisan manipulation of the electoral structure.

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elections that would ensure both the influence of third parties and the election of a president by majority vote. But even conservatives denounced the electoral college as "the source of all the greatest dangers to which we [Americans] are now subject." John G. Carlisle, the Democratic former speaker of the House of Representatives, forcefully declared that "Every consideration of justice, expediency, and political consistency demands that this antiquated remnant of European aristocracy should be eliminated from our system at the earliest possible day."[8]

Most Democrats, like Carlisle, did not favor direct popular election, however; they preferred the automatic division of electoral votes according to the popular vote distribution in each state. Such a system would prevent the virtual disfranchisement of political minorities in every state, reduce the incentives for electoral fraud, preserve the "equality" of states and the compromises upon which the Constitution had been based, and, not incidentally, protect the Democrats' advantage in the Southern states.[9]

Great interest in the proportional plan first developed after the notorious 1876 election, and within a few years, twenty proportional plan constitutional amendments were introduced in Congress. The most persistent champions of this reform were Senator Charles Buckalew of Pennsylvania and Representative William Springer of Illinois, Democrats from states whose substantial number of Democratic voters had not been represented in the electoral college since 1856. Immediately after Harrison's election by minority vote in 1888, Springer introduced another resolution for a constitutional amendment establishing a proportional electoral vote system. He continued to introduce similar resolutions in succeeding years, as did other Democrats, all to no avail. Republicans recognized that the electoral college system operated to their advantage and were able to block congressional approval of reform proposals.[10]

Confronted with this obstacle, other Democrats suggested the election of electors by districts, rather than by the general ticket, a method that could accomplish results nearly comparable to those of a proportional vote system without requiring constitutional amendments or congressional approval; state legislatures could enact the necessary laws. The 1890 elections, which brought a widespread reaction against Republican control because of political, economic, and cultural issues, gave Democrats their opportunity.

[8] *Los Angeles Cactus* clipping, Burnette G. Haskell Scrapbook, v. 4, p. 19, Haskell Papers, Bancroft Library, University of California, Berkeley; *Congressional Record*, 52d Cong., 2d sess., 677–680; John G. Carlisle, "Dangerous Defects of Our Electoral System—I," *Forum* 24 (November 1897), 266.

[9] John G. Carlisle, "Dangerous Defects of Our Electoral System: A Remedy—II," *Forum* 24 (February 1898), 651–654.

[10] Charles R. Buckalew, "The Electoral Commission and Its Bearings," *North American Review* 124 (March–April 1877): 161–178; Lawrence D. Longley and Alan G. Braun, *The Politics of Electoral College Reform*, 2nd ed. (New Haven, CT: Yale University Press, 1975), 144, 146, 154; *Congressional Record* 50th Cong., 2d sess., 481, and 52d Cong., 1st sess., 951.

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The Enactment of the Miner Law

The most successful and influential of these reform efforts occurred in Michigan. Republicans had usually carried the state in previous elections, if often by only a plurality, but in 1890, agricultural distress drew Republican farmers into a third party, the Patrons of Industry; the growing appeal of prohibition drew other normally Republican voters to the Prohibitionists, who polled over 7 percent of the total vote; and the Democrats exploited popular reaction against an aggressive Republican Congress, which had adopted unpopular tariff and deceptive currency legislation.

Michigan Democrats elected their state candidates and a solid majority of the lower house of the legislature but gained only the most tenuous control of the state senate. When the Senate convened in January 1891, its thirty-two members included fourteen Republicans, fourteen Democrats, and four members of the Patrons of Industry, one of whom regarded himself as a Democrat, and two of whom had been fusion candidates of the Democrats but who refused to be affiliated with them. The Democrats organized the body with the assistance of the Patrons, but could not reach the seventeen votes necessary to enact legislation without their further support.[11]

To reduce their dependence on Patrons' votes, the Democrats moved ruthlessly. When the Republican senators attended their party's state convention on 24 February 1891, Senate Democrats abruptly brought up for consideration two election contests and voted to replace the incumbent Republicans with their Democratic rivals—despite an agreement not to consider important matters in the Republicans' absence, despite the fact that the election committee had not yet reported on the contests, and despite the absence of a quorum on one of the votes.[12]

Outraged Republicans denounced the Democrats as "d---d thieves" for this "monstrous conspiracy for the subversion of the popular will," this "revolutionary proceeding," this "senate coup d'etat." All agreed that the Democratic motive was to have "full swing" in regard to partisan legislation, particularly bills for legislative and congressional reapportionment after the 1890 census and a proposal to change the method of electing presidential electors. Democrats, of course, saw their actions in a different light; their subsequent state convention endorsed the Senate for "fearlessly . . . unseating members holding their places by fraud and giving their seats to members chosen by the people."[13]

Thus secured, the Democrats promptly pushed legislation that would extend the political power they had gained in the election of 1890. First, party leaders introduced their redistricting legislation. The bills for redistricting the

[11] *Kalamazoo Weekly Telegraph*, 8 April 1891; Detroit *Evening News*, 7 January 1891.

[12] *Detroit Tribune*, 25 February 1891.

[13] *Detroit Tribune*, 26 February 1891; *Kalamazoo Weekly Telegraph*, 4 March, 8 April 1891; Detroit *Evening News*, 25 February 1891; William R. Bates to James McMillan, 9 March 1891, James McMillan Papers, Detroit Public Library.

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House and Senate were partisan measures and were adopted on party-line votes. The congressional redistricting measure, on the other hand, was an equitable one drawn up by the Patron senators, and received unanimous passage in the otherwise bitterly divided Senate.[14]

Democrats then turned to a bill that had been introduced earlier in the stalemated session by Representative John Miner of Detroit. Prompted by his anger that all of Michigan's electoral votes in 1888 had gone to the Republicans, whose popular vote was less than a majority and scarcely greater than that of the Democrats, Miner drew up a bill that provided for the election of the state's presidential electors by districts instead of at large. The voters of each congressional district would choose an elector, and two additional electors, corresponding to the state's two senators, would be chosen by two electoral districts, eastern and western Michigan. Miner's bill promised that in presidential elections, the state's Democratic voters would not be effectively disfranchised, as in the past. Some Democrats consciously supported the bill as a method to establish minority representation; others candidly welcomed its partisan implications. As the Detroit *Evening News* observed, although the Miner bill constituted electoral reform in "giving the minority a proportionate representation in the vote for president," it was also "very shrewd politics for the Democrats," for they had been the disfranchised minority and would now be assured of nearly half the state's electoral votes. Some Democrats proudly acknowledged their partisan motive, one legislator announcing, "We're going to gain six, and probably seven, electoral votes in Michigan by it. What are we here for?" The Patrons of Industry also supported the bill in the legislature, for they regarded it as a step toward their own objective of the direct popular election of the president.[15]

But if the impetus for the bill owed much to the immediate local context, its national importance was immediately obvious to all. Miner predicted that the system of district elections, if adopted elsewhere as well, would prevent the election of minority presidents, move toward equalizing the value of the vote, and eliminate political sectionalism and the unwarranted influence of "pivotal states" like New York. Most clearly, it would eliminate the systematic bias of the general ticket method, which had enabled Republicans to elect presidents.[16]

Accustomed to controlling the politics not only of Michigan but also of most of the North and Midwest, Republicans vigorously attacked Miner's proposal. Legislative leaders charged that it would "destroy the rights of the major-

[14] Detroit *Evening News*, 25 February, 30 April 1891; *New York Times*, 9 April 1891.

[15] *Kalamazoo Weekly Telegraph*, 21 January 1891; *Detroit Sunday News*, 11 January 1891; Detroit *Evening News*, 2, 30 April 1891; *New York Times*, 3 April 1891.

[16] *Kalamazoo Weekly Telegraph*, 21 January 1891. Of course, as contemporary political scientists have argued, the district system neither eliminates the possibility of disfranchising minority voters nor prevents the election of a minority president and actually opens the possibility of disfranchising the majority of a state's voters. For a thoughtful analysis of the district plan, but one insufficiently attentive to historical variations in the geographic distribution of voters, see Longley and Braun, *Politics of Electoral College Reform*, 57–64, 79–81. No less thoughtful, Democratic reformers in the nineteenth century also recognized these limitations of the district system; see Buckalew, "The Electoral Commission," 171.

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ity party in the state" and weaken Michigan's political influence; they attacked its constitutionality and warned of its disruptive consequences in national politics. In more explicitly partisan statements, they heatedly maintained that Democrats would support the district plan only where it would divide the electoral vote of Northern states but would oppose it in the South. To support their criticism, Republicans argued in vain that elections should be decided on the basis of *state* units and that "the chief executive is president of the states and not of the people." Democrats chortled to hear Republicans spout such traditional Democratic principles, ideas "in direct opposition to the foundation principles" of the Republican Party. The Grand Army of the Republic, Democrats gleefully announced, had settled the states' rights issue in the Civil War.[17]

When the legislature passed the Miner bill along strict party lines, stunned Republicans realized that not only would their party now have to direct some of its limited campaign resources to a formerly safe state but also that the whole calculus of national politics had been dramatically changed. In state after state, they condemned "the infamous Miner law" as "a piece of Democratic piracy for party benefit" and fretted that it would be adopted elsewhere should Democrats gain or retain control of other legislatures. In Nebraska, Republican John Thayer—elected governor in 1888, but not a candidate for reelection in 1890—even refused to relinquish his office in 1891, partially on the grounds that the Democrats and Populists would promptly "Michiganize" the state.[18]

The Republican attack on the Miner Law was so widespread and vociferous that Michigan's Democratic Governor, Edwin Winans, defended the law in the *North American Review.* He first denied the impression fostered by Republicans "that Michigan has violated precedent and introduced a dangerous innovation." Citing constitutional provisions and the common earlier practice of choosing electors by district, he declared that "many of the older States were 'Michiganized' from the beginning." Nor was the Miner Law a partisan measure, Winans maintained; judging by the 1890 election, the Democrats were likely to carry Michigan on a general ticket in 1892. More important, Winans emphasized, the law was a democratic reform to end the usual disfranchisement of the voters of the political minority. The general ticket unfairly allowed the leading party to count the minority's votes for itself; in a closely divided state, it exaggerated the influence of one party while leaving all others unrepresented in the electoral college. By mandating district elections, the Miner Law merely

[17] Detroit *Evening News*, 2 April 1891; *Kalamazoo Weekly Telegraph*, 21 January 1891. Ironically, in 1880, Republicans in New York and New Jersey, both of which leaned Democratic, had introduced legislation to choose electors by districts, favoring the measures as a way to decrease the importance of these swing states and make elections less disruptive. Democrats had successfully opposed the bills for breaking conservative traditions. *The Nation* 30 (22 January 1880): 51–52.

[18] LaCrosse (Wis.) *Republican & Leader*, 9 April 1892; *Appleton's Annual Cyclopedia, 1892* (New York: Appleton's, 1893), 467; *Washington Post*, 1 July 1891, 2 February 1892. In several states, Republicans also hesitated to challenge recent Democratic legislative gerrymanders in court lest, in special session to revise the set-aside laws, the Democrats would then "Michiganize" the state. John C. Spooner to Henry Fink, 16 January 1892, Spooner Papers, Library of Congress.

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made the choice of presidential electors correspond with elections for members of the House of Representatives and all state legislatures rather than reflect a continuing distrust of popular judgment.

On the same grounds of equity and democracy, Winans also dismissed the charge that district elections would dilute a state's political influence. As the minority helped constitute the population upon which apportionment was based, "common fairness demands that they be given their proportionate share of the electors." Such a system would also destroy the unfair influence of a few pivotal states in which a narrow plurality of the popular vote often decided the entire national election, which, in turn, provided the incentive for electoral corruption. All in all, though the electoral college "seems destined to continue for a time," each state legislature could and should provide for the fair expression and representation of popular sentiments in presidential elections by following Michigan's example in adopting the Miner Law.[19]

Similar legislation was, in fact, introduced in 1891 in Ohio, where its sponsor also introduced a resolution congratulating the Michigan legislature for passing the Miner Law. Wisconsin Democrats, also controlling their legislature for the first time in many years, considered enacting the Miner system but decided not to do so, in hopes of capturing all the state's 1892 electoral votes via the general ticket, a possibility that provoked some second thoughts even among Michigan's Democrats. Elsewhere, Democrats announced plans to introduce the Michigan plan when their legislatures convened again. And in Congress, in early 1892, Pennsylvania Democrat William McAleer proposed a measure providing that the electoral college would consist of one elector from each congressional district and two elected at large from each state.[20]

Surveying such prospects, the Detroit *Evening News* predicted: "The general adoption of the Miner election bill would revolutionize American politics. It would throw power to the west equally with the east, would make the Democracy a northern party rather than a southern one, and would give the minority [party] of northern states such a representation as its number entitles it to." The *Chicago Tribune*, a Republican newspaper, took a more partisan view of the future, vigorously waving the bloody shirt in attacking the Miner Law and declaring that Michigan had become "a mere bob to the Southern kite. And this will be the policy of Democrats in the future. As fast as by accident they get control of any Northern State which they are not sure of carrying on Presidential issues they will Michiganize it, crush out its individuality, and hitch it to the South." What neither paper stated, both recognized. Given the voting alignments of the time, the general enactment of the Miner Law would render unlikely any future election of a Republican president.[21]

[19] Edwin B. Winans, "Michigan's Presidential Electors," *North American Review* 154 (April 1892): 439–446.

[20] *Cincinnati Commercial Gazette*, 21 January, 4 April 1891; *The Nation* 52 (7 May 1891): 371; *Washington Post*, 10 February 1892; *Congressional Record*, 52d Cong., 1st Sess., p. 730; Detroit *Evening News*, 14 April 1891.

[21] Detroit *Evening News*, 14 April 1891; *Chicago Tribune*, 20 June 1892. The *Tribune*'s linkage of the Miner system to the South, of course, reflected a second, and brutal, political reality. While the Republicans' advantage in the electoral college was based on the influence of the general ticket on

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It was this prospect that confronted Republican President Benjamin Harrison on the eve of his campaign for reelection in 1892, and he became the most insistent opponent of the Miner Law. The strength of his attacks convinced one Denver newspaper that "The President is particularly rabid over the change in the Michigan electoral law, and almost threatens civil war should a Democratic President be chosen by Michigan's Democratic Electors." Harrison's most notable attack came in his annual address in December 1891. He denounced Michigan's adoption of the district system as inequitable and "threatening" and as opening presidential elections to the evil influence of gerrymander politics. "Our chief national danger," he declared, lay in such "perversion of the popular suffrage." Describing the general ticket system as vindicated by tradition, fair to all, and reflecting majority will "within the respective states," Harrison called for a constitutional amendment to require its use and prevent "partisan jugglery" in state rules for the selection of presidential electors. He also proposed a national commission to recommend changes in the electoral system in order to guarantee "fair apportionments" and "an equality of value in each ballot cast."[22]

Democrats immediately rejected Harrison's proposals and denounced what they saw as his unmitigated hypocrisy. "The words of the President's message are as smooth as velvet," declared the *Baltimore Sun*, "but beneath its most fair-seeming suggestions and recommendations a spirit of intense and bigoted partisanship can be detected." The general ticket was not an impartial system adopted for uniformity and fairness, as Harrison maintained, but a partisan one that favored Republicans, as Harrison's own 1888 election by a minority popular vote made abundantly clear. "The choice of electors by congressional districts," the *Sun* acidly observed, "would come nearer to placing the election of a President with the majority of the people than by the existing system." Others discounted Harrison's objections to the Michigan plan and advocated it as fairer, safer, less susceptible to political manipulation, and more in keeping with the intent of the Constitution than the general ticket. And Harrison's expressed concern that the Miner Law extended the influence of state gerrymanders into national politics foundered on the fact that Michigan's congressional districting act had been a fair measure enacted unanimously. But even if Michigan's districts had been gerrymandered, the *New York Times* pointed out, "the inequality in the value of the vote" would be less than it was under the general ticket system. As Governor Winans caustically noted, the evil of the gerrymander was that "it lessens the representation to which the political minority, by reason of their numbers, are justly entitled. But if we condemn the gerrymander because it lessens the representation of the minority, what is to be said of a system which excludes the minority from any representation whatever?"[23]

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states divided in political sentiments, the Democrats' edge in the popular vote was based on their suppression of the votes of African American Republicans in the southern states. For a forceful Republican statement on this issue, see "The Suppressed Vote," *Illinois State Journal* (Springfield), 18 October 1892, 2.

[22] *Rocky Mountain News* (Denver) quoted in *Chicago Tribune*, 10 December 1891; *New York Times*, 10 December 1891.

[23] *Baltimore Sun*, 11, 14 December 1891; *New York Times*, 10 December 1891; Winans, "Michigan's Presidential Electors," 445–446; Edward J. Phelps, "The Choice of Presidential Electors," *Forum* 12

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The Miner Law and the Election of 1892

Not surprisingly, the Miner Law became an important issue in the 1892 presidential campaign. Harrison repeated his condemnations of it in accepting his party's renomination, Democrats called for its adoption in other states, and observers of all stripes concluded that it added Michigan "to the three doubtful states of former years" and might actually decide the outcome of what was shaping up to be a very close election. Most importantly, the nation's attention focused on the Miner Law when Michigan's desperate Republicans undertook an unprecedented legal challenge to overturn it.[24]

Partisan Politics and the Michigan Supreme Court

Soon after the passage of the Miner Law, the Republican state central committee, chaired by U.S. Senator James McMillan, appointed a group of politicians and lawyers to investigate the prospects for testing the measure in court. After meeting regularly to discuss the issue in the spring of 1892, the committee decided to have the state convention in April nominate a full electoral ticket, rather than having district nominations as envisaged by the new law. Party lawyers would then apply to the state supreme court for a mandamus to have the ticket placed on the state ballot, thereby bringing the validity of the Miner Law before the court. When the state convention followed instructions, Jay Hubbell, a former member of Congress nominated as one of the candidates for elector, told the cheering delegates that "he had resumed the practice of law, and his first case would be to attack the validity of the Miner gerrymander law."[25]

Republicans then made "the first move in the great battle" against the Miner Law. On 26 April 1892, Henry Haigh, another Republican nominee for elector, and prominent Republican attorney Henry M. Duffield formally asked Secretary of State Robert Blacker to send county officials the usual election notices that ballots were to list the candidates for all electors. Blacker, a staunch Democrat, refused the request, insisting that the Miner Law required electors to be chosen by districts over which he had no authority. On 3 May, in the name of William McPherson, another candidate for elector chosen by the state convention, a team of Republican lawyers applied to Michigan's supreme court for

(February 1892): 702–713. Even so, Democratic Senator Buckalew had recognized the validity of the point that Harrison tried to assert. Preferring proportional election, Buckalew described the district system as only a "partial remedy" for the defective electoral college system, for it raised the prospect of "an evil and a scandal of the first magnitude—one fortunately unknown hitherto in presidential elections,—we mean the *gerrymandering of States in the formation of electoral districts.* The competition in injustice and outrage between parties which the plan would inevitably produce would soon become intolerable." Buckalew, "The Electoral Commission," 171.

[24] *New York Times*, 6 September 1892; *Portland Morning Oregonian*, 8 November 1892; *Appleton's Annual Cyclopedia, 1892*, 485; Detroit *Evening News*, 14 May 1892; Phelps, "Presidential Electors," 702; George F. Edmunds, "Perils of Our National Elections," *Forum* 12 (February 1892): 696–697; "Presidential Voting Methods," *Century Magazine* 42 (October 1891): 952–953.

[25] Detroit *Evening News*, 8, 23, 24 February and 15 April 1892; *Washington Post*, 14, 15 April 1892.

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a mandamus compelling Blacker to proceed under the old system. They filed lengthy papers supporting their request and alleging eleven reasons, mostly technical, why the Miner Law was unconstitutional and asked for a prompt ruling on the petition for mandamus in order to leave time for appeal to federal courts, if necessary, to "defeat the Democratic conspiracy."[26]

Michigan's Democrats, then holding their own state convention, were absorbed with the Miner Law and the Republican effort to nullify it. But, although concerned that a majority of the state supreme court justices were Republican, they were not apprehensive about the ultimate outcome. Their own legal authorities reassured them of the legitimacy of the district system of electors. And if a partisan court nullified the Miner Law, the party would respond forcefully, with Governor Winans calling a special session of the legislature to appoint the state's electors.[27]

Tension mounted. The independent Detroit *Evening News* regarded the Republican legal arguments as weak, but also warned Winans and the Democrats not to have the legislature appoint electors if the Miner Law was overturned, for that would consitute a "revolutionary" scheme, "an act of usurpation," a crime against popular rights, which would have horrible consequences.[28]

When the Michigan supreme court met on 19 May to hear arguments on the Republicans' petition, public interest was intense. "Such a battle as this now in progress over the Miner electoral law," one excited reporter wrote, "would have brought half the population of the state to the Supreme Court chambers before the era of the wire." Republicans were represented by Duffield, Haigh, Fred Baker, and Sullivan M. Cutcheon, while Attorney General A.A. Ellis defended the law's validity, aided by Democrats T.E. Barkworth, a legislator from Jackson, and former state supreme court justice John Champlin. The court listened to the arguments for eleven hours, well into the night. Some of the Republican objections involved minor details, such as the law having no provision to fill vacancies caused by the death of the electors *and* their alternates. But the Republicans' major, and ingenious, argument was that the Miner Law violated the Fourteenth Amendment, both the prohibition against abridging the rights and privileges of citizens and the equal protection clause. When that amendment had been adopted, Duffield and Baker pointed out, citizens had the right to vote for all of their state's electors. Thus, despite the constitutional provision authorizing the legislature to determine the manner of choosing electors, the general ticket system was inviolable, and by its universal adoption, the meaning of the Constitution had evolved beyond its language.[29]

Democrats attacked the Republicans' "startling doctrine" that "the people can by a general consent amend the Constitution without any reference to the manner . . . provided in the instrument itself." Ellis insisted upon the constitu-

[26] Detroit *Evening News*, 3, 13 May 1892.
[27] Detroit *Evening News*, 5 May 1892.
[28] Detroit *Evening News*, 30 May 1892.
[29] Detroit *Evening News*, 5, 19 May 1892; Detroit *Free Press*, 19, 20 May 1892.

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tional authority of the legislature to determine the manner of choosing electors, while his associates denied the court's jurisdiction with the traditional argument that all questions arising out of elections were political and therefore beyond the court's province.[30]

After nearly a month's deliberation, the court ruled on 17 June 1892, unanimously denying the petition for a mandamus and upholding the Miner Law. The opinion, written by Republican Justice Robert Montgomery, contained a gratuitous slap at the Democratic legislature for enacting a dangerous, unjust, and partisan law, but it rejected all Republican arguments; to do otherwise, he noted, would usurp legitimate legislative functions. The *Evening News*, although hostile to the Miner Law as weakening Michigan's political influence, welcomed the decision as the only possible one, given the explicit provisions of the Constitution, and praised the Republican justices for not allowing partisanship to cloud their judgment. The Democratic Detroit *Free Press* also lauded the justices for rejecting "the sophisms and fallacies" of the "extraordinary Republican position" and for thus disappointing "the partisans who attacked the law in the belief that partisanship would prevail and that the exigencies of the Republican case would wring from the Republican members of the court what their calm judgment might not approve."[31]

The court issued its decision while Democrats were assembling in Chicago for their national convention, and it produced general rejoicing among them. Although the convention platform did not mention the Miner Law, ostensibly because its further adoption was a matter for state, not national, action, many Democratic leaders endorsed the principle of district election and urged its adoption by other legislatures. The *Chicago Evening Post* captured their enthusiasm by hailing the Miner Law for providing for the selection of electors, and thus of the president, "virtually by a popular vote, without the troublesome expedient of amending the Constitution"—an ironic statement given the Democrats' repudiation of the Republicans' legal reasoning.[32]

Michigan's Republican Party boss, Senator McMillan, objected strenuously to the court's decision and determined to thwart it. He immediately proposed a constitutional amendment replacing legislatures' authority over electors with a direct popular vote for the president. As McMillan and the state party opposed direct election, for senator as well as president, and the divided Congress would not approve such a resolution, this action was for appearances only. More purposefully, McMillan and other Republican leaders decided to appeal the decision to the Supreme Court of the United States, and on 30 June, the state court granted Duffield's request for a writ of error to the federal court.[33]

[30] Detroit *Free Press*, 9 June 1892; Detroit *Evening News*, 19 May 1892.

[31] *McPherson v. Blacker*, 52 N.W. Rep., 469, 475; Detroit *Evening News*, 17, 18 June 1892; Detroit *Free Press*, 18 June 1892.

[32] *Chicago Evening Post* quoted in Detroit *Free Press*, 20 June 1892; *Chicago Tribune*, 18, 19 June 1892; *New York Times*, 19 June 1892.

[33] Detroit *Evening News*, 22, 30 June 1892; Detroit *Free Press*, 23 June 1892; David Rothman, *Politics and Power: The United States Senate, 1869–1901* (New York: Atheneum, 1969), 252.

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That same day, Michigan's justices heard Republican arguments in a parallel case asking for the invalidation of the Democrats' 1891 legislative apportionment acts and for a court order requiring that the 1892 election be conducted under the 1885 apportionment law passed by a Republican legislature. On 28 July 1892, the state supreme court invalidated the 1891 laws for establishing inequalities in district populations and denying "equality of representation." Republicans could take small solace in the Democrats' discomfiture, however, for the court ruled that the previous Republican apportionment of 1885 was an equally invalid partisan gerrymander "in defiance of the constitution and in utter disregard of the rights of the citizen."[34]

But this court action opened another avenue of attack upon the Miner Law. Without new legislation, the 1892 election would now have to be conducted under the still earlier and equally partisan Republican apportionment of 1881, the validity of which had not been raised in the suit. Governor Winans, therefore, summoned a special session for 5 August. But having lost their narrow working control in the senate through deaths and resignations since the regular session, the Democrats could not enact an apportionment on their own. Republicans were little inclined to help. If a new law were not enacted by 9 August, it could not be operative for the coming election without a two-thirds vote of the legislature, giving the Republicans effective veto power. Convinced that their party would carry the state under the 1881 law, Republican senators used "every artifice known to parliamentary bodies" to delay action. Their objective was to force the Democrats either to repeal the Miner Law "as a condition precedent to the passage of a new apportionment law" or to accept an apportionment "under which neither party will have any great advantage." Stalemated, the Democrats agreed to apportionment measures drawn up by Michael Dee, the editor of the independent Detroit *Evening News*, and acceptable to the Republicans as well. Although Democratic legislators thus protected the Miner Law, the new apportionment laws were viewed as "an unqualified Republican victory."[35]

The Miner Law and the U.S. Supreme Court

Turning their attention again to their direct judicial attack upon the Miner Law, Republicans prepared to argue their case before the United States Supreme Court. "Under ordinary circumstances," observed Michigan Attorney General Ellis, the Republicans' appeal would not be placed on the Court calendar for many months or even years, but given its importance, the Court scheduled it as the first case to be heard when it reconvened in October after its summer recess. Its decision would have a direct bearing on the election.[36]

[34] Detroit *Free Press*, 30 June 1892; *Detroit Tribune*, 29 July 1892; *Giddings v. Blacker*, 52 N.W. Rep. 944; *Board of Supervisors of Houghton County v. Blacker*, 52 N.W. Rep. 951.

[35] Detroit *Free Press*, 2, 5, 6 August 1892; *Detroit Tribune*, 7 August 1892; *Chicago Tribune*, 6, 7 August 1892; Detroit *Evening News*, 2, 6 August 1892; *Wisconsin State Register* (Portage), 12 August 1892; Henry Duffield to McMillan, 1 August 1892, McMillan Papers.

[36] Detroit *Free Press*, 10 October 1892; *Washington Post*, 11 October 1892.

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On 11 October, the Court heard arguments in a room crowded with prominent politicians and lawyers, including a former U.S. attorney general, the solicitor general, and two assistant attorney generals—an indication of what observers called the Harrison administration being "considerably exercised" about the prospect of the law being affirmed and, still worse, subsequently adopted elsewhere. Similarly, in what the astonished *Nation* described as an "extraordinary event" and the *New York Times* termed a "spectacle," William H.H. Miller, the attorney general of the United States (and Benjamin Harrison's former law partner), appeared as counsel for the Republicans, joining the team of Michigan lawyers led by Duffield. Although Miller acted as private counsel and not in his official capacity, it was highly unusual for the nation's attorney general to participate in a private case, and Miller's role prompted considerable talk among the capital's many attorneys. It also demonstrated, as the *Washington Post* declared, the Republican recognition of the importance of the case, "both in this election and in its possible far-reaching consequences in the future."[37]

The Democrats countered with Don Dickinson, one of the nation's leading lawyers, a cabinet member in the first Cleveland administration, and the chair of the 1892 Democratic Campaign Committee. He joined Michigan attorney general Ellis, Otto Kirchner, Michigan's former attorney general, and Champlin, a former justice of the Michigan supreme court. The merging of partisan politics and legal action seemed complete.

The *Nation* regarded the Republican belief in the law's unconstitutionality as "ridiculous," given the early widespread use of the district system of choosing electors, and even Harrison himself had seemed to recognize the validity of the practice by calling for a constitutional amendment to prohibit it. But Duffield and Miller repeated their arguments that the Miner Law violated the Fourteenth Amendment by abridging citizens' rights to vote for each elector in their state. Miller added the new argument that the Constitution, by assigning the power of choosing electors to the states, assumed that states were to be represented in the electoral college as states, a view that required bloc voting by electors chosen on a general ticket. He also vigorously urged the Court to accept jurisdiction over political questions in order to frustrate the efforts of "political bosses" to commit "grand larceny with reference to the rights of the people."[38]

Democratic attorneys retorted that the Republican arguments against the Miner Law were so obviously in error that their use could be attributed only to "the exigency of a political emergency." Ellis referred to a comparable partisan spirit evident in the decision awarding the presidency to Rutherford B. Hayes in 1877, when Justice Stephen Field interrupted with the admonition: "Most people think the least said about that the better." Kirchner and Champlin insisted that the U.S. Supreme Court had no jurisdiction, both because of

[37] Detroit *Evening News*, 11 October 1892; *The Nation* 55 (20 October 1892): 293; *New York Times*, 12 October 1892; *Washington Post*, 12 October 1892.

[38] *The Nation* 55 (20 October 1892): 293; *Washington Post*, 12 October 1892.

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technical reasons having to do with the "local" character of the law and because the issue involved was a political one. Speaking of what Justice Sandra Day O'Connor would later call, in the 2000 election controversy, a "big red flag" warning courts to defer to the legislative branch on political questions, and citing precedents to that effect, Kirchner noted that whenever courts intervened in such controversies, "in every instance the result was a fall of the bench in public estimation."[39]

In December 2000, of course, the Supreme Court fully demonstrated the accuracy of Kirchner's statement with its ruling in *Bush v. Gore*, a ruling that constituted, in the words of Justice John Paul Stevens's dissenting opinion, a self-inflicted wound damaging the Court's integrity and the public's confidence in the Court itself. It was not merely partisan Democrats who attacked the "political interventionism" of a Court majority apparently tainted by partisanship and conflicts of interest. Legal scholars noted that the justices' reversal of their own jurisprudential principles of states' rights, federalism, and judicial restraint "severely damaged their reputation as being principled and nonpartisan." Political scientists concluded that the Court had "discredited itself" with an "illegitimate, undemocratic, and unprincipled decision." Historians compared the *Bush* decision with the *Dred Scott* decision, in which the Court overreached itself for partisan purposes and "lost its legitimacy." Conservatives who had previously praised the Court for impartiality and judicial restraint felt "naive and betrayed" by the decision. And a *Wall Street Journal* poll found that a solid majority of Americans, and even a third of Republicans, believed the Court's decision was based on politics, not law.[40]

But instead of making "an unmistakably partisan decision without any foundation in law," as one judicial conservative characterized the divided Court's action in 2000, the Court in 1892 ignored the obvious partisan considerations and reached unanimous agreement on the equally obvious constitutional issues. On 17 October, as the presidential campaign entered its final phase, Chief Justice Melville Fuller solemnly read the Court's decision. Accepting jurisdiction, the justices affirmed the legislature's exclusive power to determine the manner of choosing electors, rejected the contention that variations in districts violated the equal protection clause of the Fourteenth Amendment, and sustained the Michigan supreme court by upholding the Miner Law.[41]

[39] *Chicago Tribune*, 12 October 1892; Detroit *Free Press*, 12 October 1892; Linda Greenhouse, "Justices' Questions Underlie Divide on Whether Hand Recount Can Be Fair," *New York Times*, 12 December 2000; *Washington Post*, 12 October 1892.

[40] "Text of Supreme Court Ruling on Bush v. Gore Florida Recount Case," *New York Times*, 13 December 2000; Mark Samuels, "Last Word on Election," *Southern Illinoisan* (Carbondale), 28 December 2000; Deirdre Shesgreen, "Court Ruling Seems to Buck Growing States' Rights Trend," *St. Louis Post-Dispatch*, 14 December 2000; "What We'll Remember," B15, B17; Jeffrey Rosen, "Disgrace: The Supreme Court Commits Suicide," *New Republic*, 25 December 2000, 18–21; Jackie Calmes, "Citizens' Faith in National Core Remains Sound," *Wall Street Journal*, 14 December 2000. The *Wall Street Journal* poll understated public dismay, for it was taken after the Court's first ruling on 9 December stopping the Florida recount but before its final ruling on 12 December 2000.

[41] Terrance Sandalow quoted in Vincent Bugliosi, "None Dare Call It Treason," *The Nation* 272 (5 February 2001): 15; *McPherson v. Blacker*, 146 U.S. 1 (1892); *Washington Post*, 18 October 1892.

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Democrats across the nation rejoiced over the decision. Officials in the party's national headquarters in New York were elated, and Dickinson predicted that the Miner Law and Democratic fusion with Populists might leave Michigan Republicans with only one electoral vote. Daniel J. Campau, the chair of Michigan's Democratic State Central Committee, exulted that the presidential election would be "nearer the people" and that the state's 250,000 Democrats "will no longer be voiceless in the Electoral College." The *St. Louis Post-Dispatch* hailed the decision as "a rebuke to all partisan attempts to turn the courts of this country into political sideshows," and the excited *New York Post*, blasting the "puerile pretenses" of the Republicans, declared that the decision "closes one of the most extraordinary episodes in American jurisprudence."[42]

Disappointed Republicans were furious. The *Chicago Tribune* again denounced the Miner Law as "immoral" and "a political swindle" and urged Michigan's Republicans to concentrate their energies on electing the next legislature in order to "repeal this partisan Electoral law so that it will not plague them in 1896." Indeed, William Hahn, a member of the executive committee of the Republican National Committee, soon reported to Harrison from New York that Republicans throughout the country were declaring their determination as the campaign closed to carry the election "to rebuke the Democratic Party for their outrageous gerrymander of congressional districts, and for their infamous gerrymander of the electoral vote in the state of Michigan."[43]

Republican determination was not enough to reelect Harrison, and Grover Cleveland gained a plurality of popular votes, a majority of electoral votes, and the presidency. He also captured five of Michigan's fourteen electoral votes through the operation of the Miner Law, although the state's divided electoral vote did not determine the election, at least in part because of the influence of the third-party Populists, who took electoral votes from other previously safely Republican states, sometimes through fusion with the Democrats. But in Michigan's state elections, bitter factionalism among Democrats and a general Populist rejection of fusion enabled Republicans to regain their former control despite again polling fewer votes than their divided opponents. Attorney General Ellis did receive fusion nominations from both Democrats and Populists and was reelected, but Republicans claimed most other state offices and gained control of the legislature as well.[44]

[42] *New York Times*, 18 October 1892; Detroit *Evening News*, 20 October 1892; *St. Louis Post-Dispatch*, 17 October 1892; *New York Post* quoted in Detroit *Free Press*, 21 October 1892.

[43] *Chicago Tribune*, 18 October 1892; William Hahn to E.W. Halford, 25 October 1892, Benjamin Harrison Papers, Library of Congress. The *Chicago Tribune* did concede that the Court's decision was sound. Other Republican newspapers avoided discussing the decision in order to sustain party morale. The *New York Tribune*, for example, after earlier reporting that the Court's ruling on "the celebrated Miner Law" was "awaited with deep interest all over the country," made no editorial mention of the decision itself. *New York Tribune*, 12 October 1892.

[44] Detroit *Evening News*, 3, 11, 13 August, 10, 12 November 1892. Democratic-Populist fusion on legislative candidates, however, was common, although not universal. See Detroit *Evening News*, 1 October 1892.

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Repealing the Miner Law

To "insure a continuance of Republican rule," Michigan Republicans promptly prepared to use their new power to repeal the Miner Law. One partisan editor persuaded himself that the election results in Michigan "cannot be misunderstood. . . . The people have repudiated the infamous Miner Law." Responding to a newspaper survey of their plans for the coming session, the newly elected Republican legislators gave clear priority to repealing the Miner Law, enacting new apportionments, and making further revisions in the state's election laws before even considering taxation, transportation, and other issues.[45]

Some vindictive Republicans were prepared to go even further and concocted a scheme to effectively nullify the Miner Law *ex post facto.* Fred Baker, one of the attorneys who had unsuccessfully argued the unconstitutionality of the Miner Law before the Supreme Court, drew up a bill providing for the legislative appointment of presidential electors, a course considered as well by Florida's legislature in 2000. Its enactment would permit the new legislature to unseat the five Democratic electors chosen in those districts carried by the Democrats and to replace them with Republican appointees, giving the GOP all of Michigan's electoral votes. Although Baker's plan for appointing electors was exactly what the Detroit *Evening News* had warned Democrats against as a revolutionary assault upon popular voting rights, it had some support among Republican legislators and perhaps that of Republican Governor John Rich, as well. Other Republicans were reluctant to undertake such a blatantly partisan and reactionary step, pointing out both that it would not change the national election results and that, by unseating Democrats "duly elected under a constitutional law," it "could do the party more harm than good." Indeed, the Detroit *Free Press* observed that Democrats, Populists, Patrons of Industry, and Prohibitionists, who together constituted a majority of Michigan's voters, supported the district system of choosing electors and "the Republicans will run up against a buzz saw when they tackle the Miner law." And, in fact, the Michigan Federation of Labor, the Knights of Labor, and other groups representing tens of thousands of voters passed resolutions against repeal.[46]

Nevertheless, Republican legislators moved quickly against the Miner Law. Senator Joseph Weiss, chair of the Wayne County Republican Committee, introduced the repeal bill as the very first measure of the session. The Senate Judiciary Committee then quickly reported it favorably. In vain did the Democrats' minority report strongly defend the Miner Law as more democratic than the general ticket system and closer to direct popular election of the president. On the floor, Democrats and Populists again protested, declaring that repeal abridged popular rights, frustrated majority sentiment, and further removed the president from the people he represented. Republicans, in their haste to

[45] *Kalamazoo Weekly Telegraph*, 16 November, 21 December 1892.

[46] Ibid., 28 December 1892; Detroit *Free Press*, 5, 6, 19 January, 1 February 1893; Detroit *Evening News*, 12, 14 January 1893.

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repeal the law, took no part in the debate, even eliminated the usual formality of printing the bill, and passed it on a party vote before the session was a week old.[47]

In the House, Republicans only narrowly agreed to even allow debate. Expecting, nevertheless, to be ruled out of order if they attempted to speak against the repeal bill, Democrats unanimously signed a written protest against it as "a distinct retrogression" and as justified only by "the malign influence" of "party exigency." By contrast, they noted, the Miner Law "epitomizes every principle of true popular government." But the Republican Speaker declared the Democrats' joint protest only the personal complaint of the legislator who presented it and ruled out of order all Democratic objections. The Republicans then passed the Weiss bill along strict party lines.[48]

Thus was repealed one of the few major democratic efforts actually enacted into electoral law during this period. The Miner Law, of course, was scarcely an innovation; the district system of choosing electors had been common before partisan expediency dictated its replacement by the winner-take-all system of the general ticket. Nor was the measure a fully satisfactory reform, as the Democrats themselves recognized; it did not eliminate the possibility of a president being elected by a minority vote. But the Miner Law had assured a more equitable system of popular representation in presidential elections, and its repeal, as one Democratic legislator declared, "practically disfranchises 200,000 electors of Michigan, who for the first time in the history of the state were able last November to cast their vote and have it mean something." Miner Law supporters were outraged at what the Muskegon *News* condemned as "the partisan butchers who ended its existence. It afforded the people the first glimpse they ever had of presidential [voting] liberty." Now, the *News* regretted, "The chains are fastened anew." The *Big Rapids Bulletin* similarly concluded, "The repeal of the Miner Law is a blow against the rights of the common people." The Detroit *Free Press* condemned the Republican legislators for "blindly obeying the mandates" of partisanship in passing the Weiss bill without even bothering to respond to the Democrats' indictment.[49]

The purely partisan motivation of the Republicans in repealing the Miner Law was dramatically revealed when Senator Weiss introduced on the same day as his repeal bill a joint resolution to change the method of electing state representatives in Michigan's larger (and Democratic) cities. In those urban areas, two or more representatives (Detroit had ten) were elected on a general ticket; Weiss proposed to divide them into single-member districts, thereby opening the possibility, with a skillful districting, of electing Republican candi-

[47] Detroit *Free Press*, 19, 20, 21 January 1893; *Journal of the Senate of the State of Michigan, 1893* (Lansing: State Printer, 1893), 141; Detroit *Evening News*, 20 January 1893.

[48] Detroit *Free Press*, 21 January, 2, 3 February 1893; *Journal of the House of Representatives of the State of Michigan, 1893* (Lansing: State Printer, 1893), 241–242.

[49] *Michigan House Journal*, 2057–2058; Detroit *Free Press*, 3, 21 February 1893; Muskegon *News* and *Big Rapids Bulletin* quoted in Detroit *Free Press*, 24 January 1893.

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dates from cities predominantly Democratic. In short, Weiss proposed to implement the principle of the Miner Law where it would promote party interests while simultaneously abolishing it elsewhere. Democrats denounced the scheme as both inconsistent and partisan, one senator declaring that the bill should be retitled a "Measure in the interest of the Republican party." Of course, the Democrats' own opposition to the two conflicting measures was also inconsistent and partisan, weakening the force of their rhetoric about the repeal of the Miner Law; but whereas the Republican positions would increase both representation inequities and vote distortion for the state's electorate, the Democratic defense would have maintained a less-biased system of representation. After a protracted and very bitter wrangle, the Senate passed the measure along strict party lines.[50]

Conclusion: Partisan Politics and Election Laws

These developments in the 1890s suggest that those who think the electoral crisis of 2000 might provoke a "democracy movement" that would not only eliminate the electoral college but curtail ballot restrictions and even adopt instant run-off voting are likely to be disappointed. Indeed, the rush of change after the Miner Law was to restrict, not expand, democracy, and Michigan was often in the vanguard. The 1893 Republican legislature that repealed the Miner Law also took some of the first steps toward antifusion laws, part of what one state supreme court in the 1890s described as a Republican "scheme to put the voters in a straight jacket." (The U.S. Supreme Court did not consider such laws for a century, but in 1997, the majority of the Rehnquist Court upheld an antifusion law denounced as repressive and undemocratic by many of the nation's leading political scientists and historians.)[51]

The partisan opponents of the Miner Law moved to restrict voting rights in other ways as well. Sullivan Cutcheon, one of the Republican lawyers who had argued against the law before the state supreme court in 1892, had pointed the way when he left the courthouse to deliver a public speech advocating the disfranchisment of "the irresponsible, the ignorant, and the corrupt." In strictly party voting, with Republicans allowing neither debate nor protest, Michigan's 1893 legislature approved a constitutional amendment to end the state's tradi-

[50] Detroit *Free Press*, 12 January, 10 March, 19 May 1893; *Michigan Senate Journal*, 80, 228, 656, 1318. The house tabled the measure without a roll call as the session expired. *Michigan House Journal*, 1990, 2178.

[51] For just one sample of opinions anticipating democratic electoral reform as a consequence of the 2000 election, see the articles in *The Nation* 271 (4 December 2000), especially Lani Guinier, "Making Every Vote Count," 5–7; Theodore Lowi, "Deregulate the Duopoly," 7–8; and William Greider, "Stupefied Democracy," 11–14. For antifusion laws and Michigan's involvement, see Peter H. Argersinger, "'A Place on the Ballot': Fusion Politics and Antifusion Laws," *American Historical Review* 85 (April 1980): 287–306. For the 1997 decision, see Linda Greenhouse, "Supreme Court Rules Against Fusion Tickets by Minor Parties," *New York Times*, 29 April 1997.

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tion of extending suffrage rights to immigrants who had declared their intention to become citizens. The Democratic press described this successful assault upon alien suffrage as "a Republican measure for the disfranchisement of Democrats." And in the 1895 session, Michigan's Republicans pushed through another constitutional amendment, establishing an educational test for suffrage, also directed at ethnic Democrats, as well as a restrictive voter registration law that Detroit's mayor declared would disfranchise one-fourth of the city's voters.[52] (These Republican actions, of course, paralleled the simultaneous and more famous partisan efforts of Southern Democrats to curtail the voting rights of African Americans and third-party supporters.[53])

In short, partisanship defined the construction and reconstruction of electoral laws in the 1890s. The election of minority presidents was not ended by electoral reform but merely temporarily evaded through partisan manipulation, restrictive legislation, and political realignment. The dangerous and undemocratic aspects of the American electoral system remained in place, poised to reappear a century later in a comparably competitive situation. Then, as now, those with effective political power over the electoral system used it ruthlessly to promote their own interests without regard to the rights of their opponents, their own expressed ideology, or the claims of democracy.

Developments after the disputed election of 2000 merely corroborate this conclusion. As early as April 2001, the *New York Times* concluded that "the issue of election reform" was simply a "partisan battleground" and that as a consequence, the expected election reforms, necessary to prevent another electoral crisis, had stalled. "Despite the outcry over last year's presidential election, the next national election will probably occur under virtually the same circumstances as the last." Even the widely anticipated modernization of voting technology had largely fizzled. Florida, of course, was embarrassed into action, but few states followed. Illinois, where voting irregularities and ballot disqualifications had exceeded those of Florida, "did nothing to repair similar flaws in the state's election system." As one reporter noted, "Plans to spend money to help county clerks and city election commissions buy modern equipment fell victim to political jockeying about which party benefits when not all votes are correctly cast or counted."[54]

Larger reform plans, such as revising or abolishing the electoral college, have made even less headway. And in North Carolina, a Democratic effort to

[52] Detroit *Evening News*, 23 May 1892, 19 May 1893; Detroit *Free Press*, 20 May 1893, 2 March 1895; *Michigan Senate Journal*, 1364; *Michigan House Journal*, 1010–1011, 1578, 1918; *Cheboygan Democrat*, 5 March 1895.

[53] See J. Morgan Kousser, *The Shaping of Southern Politics: Suffrage Restriction and the Establishment of the One-Party South* (New Haven, CT: Yale University Press, 1974); Michael Perman, *Struggle for Mastery: Disfranchisement in the South, 1888–1908* (Chapel Hill: University of North Carolina Press, 2001).

[54] Editorial, "Election Reform Stalls," *New York Times*, 30 April 2001; Katherine Q. Seelye, "Little Change Forecast for Election Process," *New York Times*, 26 April 2001; Anthony Man, "Legislative Winners and Losers," *Southern Illinoisan*, 3 June 2001.

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establish the Miner Law principle of district election—which, if it had been in effect in 2000, would have given Al Gore three of the state's fourteen electoral votes and the presidency—was dismissed by Republicans as not a democratic reform to escape systematic electoral inequities but only as "a mischievous, sour-grapes political end run in the still angry aftermath of Nov. 7, one that very well might spark a tit-for-tat round of retribution in other states."[55]

Clearly, then, in a highly competitive party system, whether in the 1890s or more than a century later, political parties strive relentlessly to control electoral institutions and their decisive rules. The effects of such interactive factors, then, are historically contingent. They are not something, as Senator Joseph Lieberman mistakenly believed, "that we stumbled upon on Election Day 2000."[56]

[55] B. Drummond Ayres, Jr., "Political Briefing," *New York Times*, 6 May 2001.

[56] Katherine Q. Seelye, "Old Disagreements Emerge in Election Reform Hearing," *New York Times*, 4 May 2001.

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Book Reviews

Who Are We? The Challenges to America's National Identity *by Samuel P. Huntington. New York, Simon & Schuster, 2004. 428 pp. $27.00.*

We should have been careful what we wished for. The "we" here is all of us who criticized Samuel Huntington's *American Politics: The Promise of Disharmony* (1981) for conveying a misleading view of "We the people of the United States." Following Louis Hartz, Huntington there argued for a "civic" view of American national identity as based on the "political ideas of the American Creed" (quoted on p. 46). Many called this account historically false because it neglected how massively American political identity had been defined in racial, gendered, and religious terms. Many also deemed it politically implausible because enduring communities must be bound by more than political ideas. Now Huntington joins his critics: American identity has "had several components," not just the creed (p. 49). And necessarily so: the "deep human longing for meaningful community" must be met by a stronger "glue" than "political principles" alone (pp. 12, 339).

Huntington's views have changed because of his fears for what he sees as the "fragile" American nation (p. 108). American national identity is eroding, he believes, because many American intellectual and corporate elites value multiculturalism, cosmopolitanism, and transnationalism more than national unity; because more immigrants are becoming "ampersand" Americans, maintaining dual nationalities and loyalties; and because Mexican immigrants are creating bilingual, bicultural, potentially separatist regions (pp. 138, 247). He thinks a purely creedal conception of American nationality cannot withstand these "deconstructionist" forces.

Huntington wants America to survive, and he thinks the answer is renewed commitment to the "Anglo-Protestant culture" of the settlers who founded America. He now sees that culture as the "primary source" of the only "ostensibly secular" American creed (pp. xvii, 62). Huntington insists that he favors only a "cultural," not a racial or ancestral definition of American identity (p. 31). He also disavows any "imperial impulse" that would impose "universalist" American values on the world, including religious ones. For him, American "religiosity" is the source of a distinctive American "identity and national purpose," one that may yet save the nation (pp. 365–366).

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Although Huntington is right that America was never simply a creedal nation and that purely civic nations are unsustainable, his alarm is excessive and his prescription pernicious. The United States is the richest, most powerful political community in history, and although many of its elites may favor policies Huntington dislikes, they are not about to "deconstruct" the source of their status. And most other Americans, Huntington notes, are deeply patriotic (pp. 273–276). Most non-Hispanic immigrants also continue to disperse and assimilate in ways much like in the past (pp. 194–195). Although Huntington anguishes over Mexican immigrants, he concedes that most Hispanic parents want their children to learn English "as quickly as possible" and that over 90 percent of U.S.-born people of Mexican origin speak English fluently (pp. 170, 231). The limits to their educational and economic progress that he records are not obviously due to any unwillingness to assimilate. Ongoing barriers facing all poor Americans, and especially nonwhites, may well be more of the story. In other areas, today, the dangers of overweening American nationalism appear greater than disunion.

As for Huntington's prescription, despite his commendable disclaimers, it is politically, if not philosophically, impossible to disentangle a call for "Anglo-Protestant" values from invidious ethnic and religious senses of national identity. Those words have old, familiar meanings far more resonant than Huntington's redefinitions, and they do not resonate first with what has been best in America.

Huntington is right that there are forces at work reshaping American nationalism in the 21st century, but they can be met more wisely. As David Hollinger, Bernard Yack, and others have argued and Huntington briefly recognizes, America, like other nations, has been defined by a "common history." That history presents "heroes and villains, victories and defeats" (p. 339) that diverse modern Americans will and should identify differently. They should then decide democratically how best to continue their community in light of historical experiences, modern realities, and their distinct but overlapping moral traditions. A sense of American community, as based on a shared, although contested, history, and open to all who are willing to help further this common life, is far healthier than one that insists on "Anglo-Protestant" traits.

To be sure, Huntington is also correct that many now believe that some features of American national identity should be changed. But it is not clear that this rethinking is so alien to the values he prizes. After all, if the Anglo-Protestant settlers had been persuaded that existing forms of political community were too sacred to be altered, they would never have become "We the People of the United States."

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Managing National Security Policy: The President and the Process *by William W. Newmann. Pittsburgh, PA, University of Pittsburgh Press, 2003. 288 pp. $36.95.*

All presidential administrations are alike in the development of their national security policy processes, according to William Newmann. Each new president begins his administration with a standard National Security Council staff–based interagency process. This template of the interagency process survives across administrations because it is necessary to coordinate presidential preferences with the perspectives of the Departments of State and Defense, which will end up implementing any policy decision.

But predictably and inevitably, Newmann argues, the formal process is supplanted by an informal structure in which the president meets with senior officials in less-formal meetings in order to guide the process, ensure secrecy, and control the outcome. Finally, every president develops a "confidence structure" in which final decisions are narrowed to the president and the one or two advisors in whom he has the most confidence. These three levels of policy advice develop, according to Newmann, because the interagency process is not likely to come up with the solutions/decisions that the president wants.

The substantive focus of the book consists of three sets of in-depth case studies of arms control and nuclear strategy policy making in the administrations of Jimmy Carter, Ronald Reagan, and George H.W. Bush. These were three very different presidents, and Newmann's ability to demonstrate consistency in the development of their national security policy–making structures makes for a compelling argument for the validity of his thesis.

In the Carter administration, Newmann takes up the administration's initial approach to the Strategic Arms Limitation Talks and Carter's preference for deep cuts in the nuclear arsenals of the United States and the USSR. The second Carter case was his decision to take a tougher stance toward the Soviet Union after the hostages were taken in Iran and the Soviets had invaded Afghanistan.

The Reagan administration cases examined include internal administration battles over the Strategic Arms Reduction Talks (START) and the origins of Reagan's Strategic Defense Initiative (SDI). After the bruising battles over arms control policies in the first years of the administration, Reagan decided to drastically narrow the policy development process for the SDI, in which even the Secretaries of State and Defense were kept out of the loop until the decision had been made.

The cases that Newmann takes up for the Bush administration are the Malta Summit of 1989, the conclusion of START in 1991, and the development of START II in 1993. He concludes that compared to the other two administrations, the Bush national security team functioned like a "well-oiled decision-making machine" (p. 14), partly because the major players had all worked together at high levels in previous administrations.

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Newmann concludes that all presidents learn one lesson: "A smaller, closely knit decision-making unit is more controllable, more adaptable, and more likely to produce the types of decisions the president favors" (p. 152). But Newmann wisely concludes that all three systems are necessary to each presidency and all three can operate simultaneously, although with different levels of influence on different policies. Clearly, routine aspects of policy formulation must be run through the interagency process or there would be chaos. Clearly, the highest presidential priorities, especially if they are controversial or entail secrecy, will be worked out among the president and a few advisors in the confidence structure before being turned over for implementation through the standard interagency process.

The limits of this study are, primarily, Newmann's tendency to generalize from the arms control cases to the full national security policy process within each administration and his claim that "all" administrations (see, for example, pp. 3, 8, 12), not merely the three that he studies, go through the same evolutionary process that he describes. But despite moving beyond his evidence, his generalizations are plausibly applicable to other postwar presidencies. Overall, Newmann presents a compelling analysis; his strengths lie in the depth of his research, his mastery of the scholarly literature, and the rigor of his analysis. Any student of national security policy making would benefit from reading this book.

JAMES P. PFIFFNER
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HST: Memories of the Truman Years, *edited by Steve Neal. Carbondale, Southern Illinois University Press, 2003. 267 pp. $29.50.*

Miracle of '48: Harry Truman's Major Campaign Speeches & Selected Whistle-Stops, *edited by Steve Neal. Carbondale, Southern Illinois University Press, 2003. 199 pp. $29.50.*

Presidents, in times of crisis, or during hard-fought reelection campaigns, hustle out a caricature of Harry S. Truman. They invoke the feisty little guy from Missouri who claimed that the buck stopped with him and who, in the campaign of 1948, fought on against the odds. This Truman caricature is useful folklore for Republicans as well as Democrats. President George H.W. Bush emulated Truman in his own 1992 whistle-stop tour. Bush, the son, has invoked Truman in references to the buck stopping at his desk and is sure to allude to the 1948 campaign if he becomes an underdog in 2004. Strikingly, these invocations of Truman are blind to his status as inheritor and defender of FDR's liberal Democracy.

Behind the folkloric caricature of Truman, there is a far more complex real-life politician and president. He inherited the leadership of the New Deal's liberal project and defended it from a resurgent Republican party. Simultane-

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ously, he reshaped U.S. foreign policy to revive Europe and contain Communism. How does Truman's caricature relate to the complex reality of his occasionally brilliant postwar leadership?

Steve Neal's two edited volumes offer the occasion and the material for thinking seriously about this question. In *HST: Memories of the Truman Years*, Neal has assembled interviews with twenty of Truman's contemporaries—officials, fellow politicians, and friends. All of these interviews are drawn from the oral history program of the Harry S. Truman Library. Neal has excerpted the full interviews, making available key parts of the recollections of Truman's associates, from Dean Acheson to Earl Warren. Included are the recollections of a diverse group of officials, political leaders, and Washington observers.

The transcripts of these interviews are available only at the Truman Library, and Neal does a service by making them available as a chorus of perspectives on Truman. There is some fulsome praise here that might have been excluded, but Neal has excerpted these interviews with an eye for rich substantive content. In them, we can find diverse perspectives on key issues and important decisions within the Truman presidency. For example, Judge Samuel Rosenman, James Rowe, and Robert Lovett compare and contrast Truman's leadership style with that of Franklin Roosevelt. Truman's approach to postwar Germany, European recovery, and the Truman Doctrine are addressed by Dean Acheson, Conrad Adenauer, Lucius Clay, and Paul Hoffman. Other interviews shed light on Truman's tense relationship with James Byrnes, his efforts to control General Douglas MacArthur, his press relations, and his productive partnership with Senator Arthur Vandenberg. One interview, in particular, sheds light on Truman's 1948 electoral campaign and the origins of the folkloric Truman. Richard Strout recalled Truman setting out in June 1948 from Washington's Union Station on his first campaign whistle-stop tour. "The sixteen-car special was waiting . . . and it was kind of pathetic; there was no crowd there. . . . The mood . . . was sort of the pathos of this little man who . . . couldn't possibly win, but he was going out in a game fight" (pp. 211–212).

Steve Neal's *Miracle of '48* addresses that "game fight." This volume assembles Truman's major campaign addresses along with a sample of his minor stump speeches. In a sense, Truman's two different images—the spunky politico and the liberal, internationalist president—are joined in this volume. Truman's stump speeches exhibit local color and political kitsch. In York, Pennsylvania, he lauded the 92-year-old former mayor who had shaken hands with every president, beginning with Lincoln. In Winslow, Arizona, Truman said that "the greatest epitaph in the country" was the nearby "Here lies Jack Wilson. He done his damndest" (p. 92). Later, at the North Carolina state fair, Truman said: "For a long time now, some of my North Carolina friends have been telling me I ought to take a look at this great state fair of yours. . . . I have always liked to go to fairs. But I do have one complaint. Now they make me one of the exhibits, and I don't get a chance to look at the others very much" (p. 133).

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Alongside the stump speeches are Truman's major campaign speeches of 1948. Here is a different kind of presidential rhetoric, the reasoned policy address that has all but disappeared from modern election campaigns. Truman's major addresses shaped logical arguments for his domestic and foreign policies. On 12 June, at a University of California commencement, he presented "the steps the United States has taken to obtain peace in the world . . . [and] what future measures we must take" (p. 29). In Detroit, on Labor Day, he detailed the Democratic party's contributions to the security of working people and argued that Republican policy preferences would abolish that security. At the National Plowing Match, in Dexter, Iowa, Truman explained the policies developed since 1933 that had increased commodity prices, lowered interest rates for farmers, and expanded crop storage facilities.

Neal's two very useful volumes help us see Truman whole. They unite the folkloric Truman with the far more complex president whose leadership was often prescient in both domestic and foreign policy. One might hope that contemporary American presidential politicians would honor by emulation that more-complex Truman when they invoke the spunky little guy who fought on against the odds.

PERI E. ARNOLD
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Out of Touch: The Presidency and Public Opinion *by Michael J. Towle. College Station, Texas A&M University Press, 2004. 162 pp. $37.95.*

George Gallup, the famous pollster and student of public opinion, was wrong—at least with respect to American presidents: the proliferation of opinion polling has not led presidents to be increasingly responsive to what citizens want from government. Michael J. Towle's modest but engaging book provides a potent explanation for this, along with many interesting and intriguing historical details (such as eyebrow-raising communications between presidents and pollsters such as Gallup and Louis Harris themselves). Although Gallup was wrong, Richard Neustadt (*Presidential Power*) was on the mark in how presidents cared about their public prestige and reputation, for which Gallup's and other polls have provided measures with their presidential popularity ("approval") questions. Presidents perceive their popularity as a political resource in policy making and bargaining, and as an indication of their prospects for reelection.

According to Towle, who draws heavily on archival evidence, the extent to which presidents Harry Truman, Lyndon Johnson, and Jimmy Carter were responsive to public opinion on issues important to the public depended on whether these presidents had high or low levels of support, as measured by the polls or other indicators of public opinion (including mail, phone calls, press coverage, and the perceptions of leaders inside and outside of government). It

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also depended on psychological processes that political scientist John Kingdon and psychologist Leon Festinger had previously identified. Specifically, in periods of high popularity, such as immediately after a president takes office, feelings of exuberance and self-acclaim (Kingdon) and confidence that they can maintain public support—and a sense that the public is worth listening to, inasmuch as they elected the president—lead presidents to be responsive to the public. In contrast, presidents sour on the public during periods in which they are unpopular, perceiving the public as poorly informed and in need of persuasion. At these times, presidents are dismissive toward the public, or even completely out of touch with what the public might genuinely have reason to want. According to Towle, this is their way of reducing the "cognitive dissonance" (Festinger) that they are experiencing.

Towle's finding that presidents have difficulty maintaining high levels of popular support and that they tend to become less responsive is persuasive and compelling. More puzzling, however, is precisely *how* this occurs. Towle does not cite the work of Robert Jervis, Deborah Larson, and Douglas Foyle, among others, who have written about elite-level psychology, and who would surely assert that other psychological processes are at work, including how leaders perceive (and misperceive) the problems they face and their role as leader vis-a-vis the public. Towle depicts presidents as strikingly irrational, turning the accepted difference between elite opinion versus mass opinion on its head: the public apparently has understandable concerns and opinions on important issues, which presidents think they can ignore when their popularity has fallen and their psyche has been shaken.

Towle also does not wrestle with the two other more-rational motivations that presidents have: pursuing policy or ideological goals and pursuing reelection. At this writing (May 20, 2004), President George W. Bush's approval ratings are at a low point (under 50 percent), with an election approaching. Is it cognitive dissonance that has caused him to ignore public opinion in taking positions on the Iraq occupation and other issues that appear at odds with the public? Or is he continuing to pursue doggedly the foreign and domestic policy goals that he most values? Or is he expecting the U.S. occupation to succeed in establishing a stable Iraqi government and the economy to rebound fully on all fronts before the 2004 election? In contrast, the presidents Towle describes are not attentive in this way to the actual performance of their administrations. It could be, of course, as Towle acknowledges, that his cases are not exhaustive; and it is possible that presidents since Carter have behaved differently as the result of changes in politics or in the capabilities and strategies of presidents in using polling and other information. *Out of Touch* and other recent work on presidents and public opinion should provoke others to answer these questions.

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The Character Factor: How We Judge America's Presidents *by James P. Pfiffner. College Station, Texas A&M University Press, 2004. 224 pp. Cloth, $40.00; paper, $16.95.*

Presidential character has become a central component of presidential campaigns and politics. In a sea of starkly critical commentary by partisans and the media, James Pfiffner offers a balanced, scholarly analysis of presidential character. The central theoretical concern of *The Character Factor* is the standards by which we judge the integrity of presidents. Pfiffner rejects absolutist perspectives, according to which any indiscretion is reason for scorn. Instead, he argues for a pragmatic standard that recognizes that all people, especially ambitious politicians who survive the competition for the highest office, are prone to behavior short of the ideal. This pragmatic perspective, however, is not clearly defined. Pfiffner does not embrace relativism, but his pragmatic approach could devolve into relativistic judgments. At times, Pfiffner's discussion suggests a utilitarian view, in which the ends may justify some dishonesty (for example, a lie may be acceptable if it helps attain a greater good, such as national security). At other times, the discussion reflects a contextual view, in which a president's misbehavior is evaluated within the broader pattern of a president's behavior and/or the historical context in which the president operates. Although the specifics remain enigmatic, the central theme is that we must look at the fuller picture of presidents' personas, the circumstances in which they operate, and the consequences of their behavior. *The Character Factor* effectively shows that no president is a saint or a demon and that all presidents exist in the gray areas of virtue.

The chapters devoted to honesty, consistency, and keeping promises remind us why integrity is important to the proper functioning of a democratic republic. Citizens cannot cast informed votes and hold officials accountable without knowing what government is doing or will do in the future. The difficulty is that not all lies, inconsistencies, or broken promises are equally damaging to the polity. Some instances of dishonesty may be socially or culturally acceptable, if not justifiable. Much of the book illustrates instances of presidential lies, policy inconsistencies, and broken promises. Pfiffner develops a typology that he uses to evaluate the severity of various acts of dishonesty. The categories, however, are not necessarily mutually exclusive, and different judges may quibble over the severity of acts of dishonesty. Pfiffner recognizes that his cases might not fit his categories and that the categories may not even be the correct ones (p. 63). Still, the discussion is thought provoking and balanced enough that partisans of both stripes will have something to argue about.

Pfiffner's chapter on marital fidelity attempts to grapple with the importance of the topic. He raises the issue of private versus public morality and introduces the concept of president as moral exemplar. In his view, the standards of behavior for presidents should be higher than those for private citizens, given the president's visibility and status as a public role model. Marital infidelities are

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problematic because they represent a breach of trust at an interpersonal level. Exposure of marital infidelity is especially problematic, inasmuch as it undermines the president's standing as moral exemplar and the resulting scandal may diminish the president's efficacy. A marital infidelity that becomes a scandal consumes the president's time and energy, impairs his relations with his staff, and may erode his political capital and ability to persuade others in and around government.

The Character Factor will appeal to anyone interested in the presidency or political ethics. The book will be useful in classes at all levels because it is thought provoking and provides enough historical detail to generate meaningful discussions among students, scholars, and politically concerned citizens.

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The Buying of the President 2004: Who's Really Bankrolling Bush and His Democratic Challengers—and What They Expect in Return *by Charles Lewis. New York, Perennial, 2004. 510 pp. Paper, $14.95.*

Ever wonder what goes on within the system of American campaign finance? If so, Charles Lewis's new book on 2004 presidential candidate contributors should be must reading. This volume takes advantage of the wealth of finance data currently available to discuss the complex and controversial role that money plays in national politics. Using information from the Federal Election Commission, case studies of leading politicians, and personal interviews with behind-the-scenes power brokers, Lewis and his research team dissect the way in which money has propelled the careers of leading politicians and how key interests benefitted from these political investments.

Among the disturbing trends documented in this research is that of career patrons of various Republican and Democratic presidential candidates. Career patrons are individuals and organizations who have contributed hundreds of thousands of dollars to our leading aspirants over the course of their political lifetimes. The top career patron of George W. Bush was the Enron Corporation (p. 170), while for John Kerry, it was the Boston law firm of Mintz, Levin, Cohn, Ferris, Glovsky, and Popeo (p. 399). No one who ran for president in 2004 escaped having a series of well-heeled benefactors who helped them along the way and ensured that the candidate would have a forum for his or her message.

It is not just the documentation of the role of big money in our political system that is disturbing but the close tie between money and action for many politicians. Time after time, there is a strong association between receiving money from particular groups and support for tax breaks or policy proposals that advance the cause of those very same interests. Others, of course, claim that these ties are either coincidental or a sign that politicians and financial

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interests share key values. But Lewis goes beyond that counterargument to show convincingly that in some cases, politicians have altered their previously stated views in order to support an action desired by a leading group.

This book is not just a dry recitation of campaign finance statistics. Rather, it uses personal interviews and case studies to record how the political careers of our presidential candidates have been advanced by moneyed interests. In many respects, these case studies are the most intriguing part of the book because they bring to life the financial patterns that are discussed in the book.

For example, we learn how Bush family patrons helped revive the unsuccessful business career of George W. Bush and propel him into ownership of the Texas Rangers baseball team. It was this move that turned around Bush's personal finances and made him a multimillionaire.

Kerry has received considerable financial support from the Cellular Telecom and Internet Association, whose lobbying interests are represented by the Mintz et al. law firm (a firm that also employs Kerry's brother, Cameron Kerry). It is no accident that John Kerry sits on the Commerce Subcommittee on Communications, which has jurisdiction for overseeing the actions of the Federal Communications Commission (p. 374). Lewis documents how, on several occasions, Kerry has introduced bills that were advantageous to the telecommunications industry.

All who are interested in campaign finance, money and politics, and presidential politics will benefit from reading this book. It is a valuable source of anecdotes and data concerning the close tie between financial interests and political success in American politics. Lewis deserves a lot of credit for providing clear documentation of patterns that should be disturbing to all Americans.

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Vote Your Conscience: The Last Campaign of George McGovern *by Richard Michael Marano. Westport, CT, Praeger Publishers, 2003. 304 pp. $59.95.*

Although books examining winning presidential campaigns proliferate, works about losing presidential campaigns are fewer in number. More rare still are those describing campaigns that ended after three primaries and caucuses.

Michael Marano, an attorney who volunteered in George McGovern's quixotic effort to capture the 1984 Democratic presidential nomination, offers a book that is one part discussion of the 1984 campaign and one part effort to rehabilitate McGovern's image following his landslide defeat by President Richard Nixon in the 1972 election. McGovern, who carried only Massachusetts and the District of Columbia against Nixon, would have his image further tarnished when he was defeated in 1980 in his effort to win a fourth term in the U.S. Senate. Marano notes that pessimism greeted McGovern's comments

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in the fall of 1983 that he might seek the 1984 nomination, with one longtime financial contributor sending him a postcard with two words written on it: "forget it" (p. 50). The press was also skeptical, suggesting that McGovern's 1972 defeat had rendered him a less-than-credible candidate. By the time his campaign would come to an end in March 1984, a Boston Globe editorial would describe McGovern as representing "stronger values than the current political atmosphere allows" (p. 168).

The book begins with an Introduction that examines the disastrous 1972 campaign. Marano suggests that the campaign failed because of party infighting, which left McGovern at the head of a badly splintered party, in which major constituencies (especially organized labor) were hostile to the nominee; a poorly coordinated campaign organization; and McGovern's portrayal by the media as a "narrow liberal antiwar candidate" (p. 8).

Marano reviews McGovern's 1980 Senate campaign, arguing that he was defeated because right-wing groups from outside the state bankrolled a massive effort to misrepresent McGovern's record as part of the first wave of negative campaigning. McGovern was one of five liberal Democratic senators (the other four were Birch Bayh of Indiana, Frank Church of Idaho, Alan Cranston of California, and John Culver of Iowa) targeted by the National Conservative Political Action Committee. All were subjected to negative campaign tactics, which were considered new and untested at the time. Only Cranston was re-elected, giving these negative tactics a momentum that continues unabated to this day.

Marano then takes up the 1984 campaign. Chapters are devoted to the decision to run; the press reaction; the McGovern platform; and the campaign in Iowa, New Hampshire, and Massachusetts. The final chapter deals with McGovern's effort to influence the Democratic party platform and the future direction of the party, an endeavor that would prove to be fruitless.

What Marano offers is the story of a poorly funded campaign that was driven by McGovern's "message," which emphasized his sharp differences with President Ronald Reagan's domestic and foreign policies. McGovern, Marano observes, refrained from personal attacks against his opponents and instead focused on policy differences, especially his commitment to closer relations with the Soviet Union and sharp reductions in military spending.

Former Vice President Walter Mondale was the Democratic front-runner, primarily because he was seen as having the best chance to defeat Reagan in the general election. McGovern (who endorsed Mondale after dropping out) rejected that notion, and urged voters to "Look into your hearts, your consciences. The vote you cast is not a bet on a $2 horse race" (p. 172). Ultimately, Democratic voters went with the safe bet, and McGovern dropped out after coming in third in Massachusetts.

Although the book is strong in detail about the 1984 McGovern campaign, we are left unsure of McGovern's motives. Did he really think he could win (as pollster Pat Caddell suggested)? Or was he trying to shape the debate and influence the direction of the party (as longtime McGovern aide Glenn Cunningham suggests)?

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Admirers of McGovern will regard this book as a vindication of his unrepentant New Dealism. McGovern was a decent man, who was one of the first victims of the then-emerging indecency of what we now call the politics of personal destruction, as exemplified by the negative attacks against Max Cleland in Georgia in 2002. To many, McGovern's conduct in his last campaign is a reminder of what politics once was—before campaigns were driven by attacks and counterattacks.

JEFFREY KRAUS
Wagner College

Transnational Conflicts: Central America, Social Change, and Globalization *by William I. Robinson. New York, Verso, 2003. 400 pp. $26.00.*

This intelligent and thought-provoking book argues that Central American economies, polities, and societies have been transformed through transnationalization. This outcome is "the unintended consequence of the collective intentions of multiple social forces in struggle." Thus, William Robinson argues that revolutionary movements sought to build a different society but, instead, became "the unwitting midwives of capitalist development in the age of globalization" (both quotations from p. 154).

International and internal wars, including U.S. interventions, in Central America defeated the revolutionary left but also weakened and bankrupted old oligarchies. These processes saw peasants changed into proletarians, guerrillas into parliamentarians, and social activists into internationally funded nongovernmental organization (NGO) staffers.

Central American economies, once dominated by export commodity agriculture and later modified through import-substitution industrialization (ISI), today are different. The region, Robinson argues, is now integrated into worldwide capitalist production. In-bond export manufacturing [*maquiladoras*], in which the value added is the local labor, dislodged ISI. Nontraditional agricultural exports grew faster than coffee or banana exports. Tourism boomed, engaging international and local firms. And massive Central American emigration amounts, in part, to investments in the developing remittances industries. These transformations "generate local winners and local losers" depending on their "relationship to the global economy and society" (p. 198).

Central American civil societies became both "an arena for exercising domination" (p. 222) and "a transnational battlefield" (p. 225). Robinson argues that U.S. and other internationally induced and funded NGOs became agents for restoring capitalist hegemony, but without restoring old oligarchies. New, dynamic, export-oriented business associations fought against and prevailed over "dinosaur" elites—hence, the battlefield. They established new domestic and international alliances, supported think tanks, developed politically savvy and technically skilled politicians and government officials, and, thus, helped to change policies and the climate of opinion. Some NGOs became subcontractors for privatizing the state. All of these processes worked to exercise domination through a form of consent—hence, hegemony.

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The wars and physical and social destruction of the 1980s and these social and economic changes led also to transnationalized states, serving the interests of new transnationalized capitalist elites and enforcing new policies. Demilitarization was one widespread result. The power of the military in Central America is a pale shadow of its omnipotence before 1980. "New Right" politicians—neoliberal agents and their beneficiaries—have won four consecutive Salvadoran presidential elections since the late 1980s. Their political kin reshaped Costa Rica's social-democratic legacies, taking over and transforming the two leading parties.

A better book would link more effectively the abstract theoretical first chapter and the remaining empirical chapters. The latter are more theoretically nuanced and analytically impressive than the somewhat dogmatic opener. A better book would also distinguish more clearly between the devastating and long-lasting effects of war and the collapse of the international prices of Central American traditional export commodities in the 1980s, on the one hand, and the alleged effects of transnationalization, on the other, on the impoverishment of popular majorities. Most Central Americans have long been poor. They became more impoverished in the 1980s. The point should be both to understand why this occurred and to change it, to paraphrase Karl Marx.

Robinson's long book relies on nondeterminist modified Marxist analyses and depends, as this review necessarily reflects, on the language that accompanies it. That is not my style of thinking or writing. Nevertheless, Robinson raises important issues effectively and creatively, synthesizing a wide scholarship, and covering many topics. He makes good and fair use of works that are analytically valuable, despite his disagreement with their normative biases. His work deserves reading by those who may nonetheless disagree with his analysis.

JORGE I. DOMÍNGUEZ
Harvard University

Corporate Warriors: The Rise of the Privatized Military Industry *by P.W. Singer. Ithaca, NY, Cornell University Press, 2003. 330 pp. Cloth, $39.95; paper, $19.95.*

Several trends have coalesced since the end of the Cold War that have given rise to a new, influential actor on the world stage, the privatized military firm (PMF). Kenneth Waltz's assessment that bipolarity was synonymous with superpower management of international affairs was prescient. As the Cold War standoff faded, state and nonstate actors enjoyed more freedom to maneuver as the United States and Russia became increasingly unwilling or unable to intervene in the chaotic trouble spots along the periphery. Moreover, the drawdown of militaries across the globe in the 1990s dumped surplus military equipment and personnel on the open market. An increasing faith in market solutions to public problems led to a surge in outsourcing of tasks traditionally

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undertaken by governments. All the mix needed were a few entrepreneurial senior officers who could recognize opportunity and make things happen. Many have gone on to make real fortunes with firms such as Military Professional Resources Incorporated (MPRI), Dyncorp, and Science Applications International Corporation (SAIC). In fact, you might already be participating in the new global security market; PMFs, which enjoyed a 50 percent run-up in stock prices after September 11, are now a staple of many 401k plans.

As P.W. Singer notes in this well-conceived survey of the modern defense industry, PMFs are not a new phenomenon on the world stage, but they have recently enjoyed a surge in acceptance and have taken on roles and tasks that just a few years ago were the purview of governments. MPRI, a firm made up of ex-U.S. military personnel, for instance, is credited with helping the Croatians develop the combined arms operations that allowed them to deliver a series of stinging defeats to the Serbs in the 1990s. Brown & Root now handles many logistical activities for the U.S. military. SAIC assists in the formulation of U.S. defense policy, while foreign PMFs have helped embattled governments defeat rebels in exchange for mineral rights. PMFs also have provided security to international relief agencies as they have entered war-torn areas to provide humanitarian relief.

Singer explores the phenomenon of PMFs in a variety of ways. He discusses the nature of the business itself—the firms, clients, and incentive structures that form emerging security markets. He uses traditional balance-of-power theories to speculate about the impact of these new military actors on the world stage and to highlight the fact that traditional theory often has little to say about security entrepreneurs. He taps principle-agent theory to describe the divergent interests that are inherent in the relationship between governments and PMFs and the moral hazards that can arise as security workers ply their trade across the globe.

Singer provides the first systematic survey of the PMF by describing what is known empirically and theoretically about the new military entrepreneurs. *Corporate Warriors* constitutes an important first step in an entirely new field of security studies. His work calls attention to an important development on the world stage and to what it might portend for international politics, civil–military relations, and democracy itself. To his credit, Singer avoids the temptation to launch some grand theoretical enterprise and instead focuses on providing the reader a compelling description of what is actually going on "out there," placing these data in the context of the current theoretical literature. He identifies normative and regulatory issues, while also noting that PMFs often help resolve conflicts and save lives. *Corporate Warriors* provides a template for a new theoretical enterprise in the fields of international relations and security studies: to explore PMFs as both an independent and dependent variable in world politics.

JAMES J. WIRTZ
Naval Postgraduate School

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Torn and Frayed: Congressional Norms and Party Switching in an Era of Reform *by Judd Choate. Westport, CT, Praeger Publishers, 2004. 159 pp. $59.95.*

Even as an institution's membership and rules change, institutional norms provide important continuity in times of flux and uncertainty. So argues Judd Choate in this insightful examination of the impact of norms and party switching on the House of Representatives after the Republican takeover in 1994. Interviewing twenty-three members of Congress regarding their attitudes toward the norms of seniority, specialization, and reciprocity, Choate finds that even if these norms were challenged by the actions of top Republican leaders and the attitudes of young Republican "revolutionaries," they, nevertheless, have important staying power. Arguing that "as they are socialized into the institution, House members gravitate to these norms as a way of securing both personal and professional benefits" (p. 20), Choate finds that the more-senior members' adherence to and advocacy of norms lend important stability to the institution.

Norms also stabilize the institution during the uncertainty that results from members switching parties. Identifying three factors that drive party switching (district realignment, policy or ideological disagreement with one's party leadership, and attractive offers from the other side), Choate's perceptive analysis reveals that even as they seek to entice and accommodate switchers, the parties have developed norms concerning how to compensate members of the party who have been displaced or otherwise harmed by a party switch, thus averting what is somewhat hyperbolically deemed a potential for institutional "chaos" or "anarchy" (p. 89).

As is the case with any exploratory study, this book leaves important issues problematic and ripe for further consideration. For example, it is unclear whether what the author labels institutional "socialization" to norms he instead understands to be a mere recalculation of interest on the part of the member. Suggesting the importance of both institutional and individual interests, this book does not confront the more interesting question of how the institutional learning of norms and members' individual interests in adhering to norms are related. Thus, when an interviewee recounts the old congressional saw about seniority ("The longer I'm here the more the seniority system looks good"), it is taken as evidence that "members are influenced by wisdom that can only come through sustained work in the institution" (p. 118) rather than as a humorous acknowledgement that members recalculate how seniority serves their interests with advanced tenure in the House.

More importantly, also unclear is the extent to which one can generalize from these conclusions beyond the Republican congresses. Sometimes challenging previous studies of norms as "idiosyncratic . . . or no longer applicable" (p. 23), the author does not adequately consider the possibility that the Republican freshman classes of 1992 and 1994 were more likely than most other

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freshman classes to be anomalous in their appreciation of institutional norms. Indeed, given that many of the younger members of the 104th Congress were products of a Gingrich-led GOPAC "farm team" of candidates schooled on how to "talk like Newt" about the shortcomings (even "corruption") of the Democratically controlled House, it is not surprising that these members have less regard for House norms than do their more-senior colleagues.

These criticisms notwithstanding, this is a well-constructed study that properly centers its analysis on the attitudes of House members. In a field that sometimes tends to view the House primarily through highly stylized theoretical lenses, Choate's calls for increasingly tapping members as a resource and a greater behavioral focus are well taken. Though problematic at times, this book will undoubtedly lead its readers to reconsider the importance of congressional norms. For this alone, it is well worth reading.

DOUGLAS B. HARRIS
Loyola College in Maryland

The United States and Coercive Diplomacy *edited by Robert J. Art and Patrick M. Cronin. Washington, DC, United States Institute of Peace Press, 2003. 464 pp. Cloth, $45.00; paper, $19.95.*

U.S. diplomacy leans heavily on its military might. Building upon the work of scholars such as Thomas Schelling and Alexander George, this volume, edited by Robert J. Art and Patrick M. Cronin, explores the limits of coercive diplomacy, the attempt to get a state or nonstate actor to modify its behavior with "either the threat to use force or the actual use of limited force" (p. 6). When married to military power, diplomacy becomes "forceful persuasion," acting to compel changes in an opponent's foreign policy with measures short of war.

As Art notes, coercive diplomacy is an attractive tool of foreign policy. The strategy seems to promise results "on the cheap," obtaining desired goals with minimal costs (p. 5). Yet, as the contributors to the volume argue, coercive diplomacy is a difficult undertaking, one that entails inherent risks. If the United States fails to coerce another state, politicians must either back down—risking their reputations—or escalate the crisis to war.

Coercive diplomacy's unique challenges are aptly demonstrated in the volume's eight case studies. Written by scholars and practitioners, these chapters seek to demonstrate the successes and failures of U.S. coercive diplomacy in the post–Cold War world, from 1990 to 2003. The details of most of the cases, including the U.S. intervention in Somalia, NATO's bombing of Serbia, and the containment of Iraq, will be well known to the reader. Yet, the studies provide significant insight into contemporary coercive diplomacy. Martha Crenshaw, for example, convincingly argues that many characteristics of terrorism complicate the use of coercive diplomacy. With terrorists, targets of coercion are "multiple, shifting, and diffuse," their assets hidden and thus difficult

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to threaten, and their behavior more risk-acceptant than that of states (p. 314). Similarly, William M. Drennan's discussion of North Korea demonstrates the limits of coercive diplomacy when faced with weapons of mass destruction, showing how failures of U.S. and North Korean bargaining almost led to dangerous crisis escalation in 1994. Dealing with the more-conventional arena of Great Power struggle, Robert S. Ross's excellent analysis of the 1995 Taiwan Strait confrontation demonstrates that both the United States and China successfully deployed coercive diplomacy, with China convincing the United States to reduce its support for Taiwan while the United States maintained credibility with its Asian allies.

If there is any weakness to *Coercive Diplomacy*, it is in its discussion of the theory—under what conditions is coercive diplomacy likely to succeed or fail? As with many edited volumes, there is no framework uniting the different case studies. At times, the cases seem more focused on contingent events—Jimmy Carter's role in North Korea, or particular personalities bargaining in Haiti, for example—than they are on generalized statements about coercive diplomacy.

Moreover, in the end, this volume does more to confirm hypotheses than to develop new ones. In his conclusion, Art draws many of his arguments from George's earlier work on coercive diplomacy, including his emphasis on whether positive inducements, the "balance of resolve," and the type of demand made to an opponent influence the success rate of coercive diplomacy. Art's conclusion will certainly be useful for scholars interested in testing theories of coercive diplomacy in different historical settings, but it may be less useful for those wondering whether these hypotheses are still valid in a world in which conventional security threats are augmented by the proliferation of weapons of mass destruction and transnational terrorist networks. Nevertheless, Art's conclusion, that coercive diplomacy exhibits mixed results at best, is an extremely important finding for academics and policy makers alike, making this a significant contribution to the fields of diplomacy and conflict resolution.

STACIE E. GODDARD
Wellesley College

Trade Threats, Trade Wars: Bargaining, Retaliation, and American Coercive Diplomacy *by Ka Zeng. Ann Arbor, University of Michigan Press, 2004. 324 pp. $57.50.*

This book addresses the question of why some countries (particularly China) successfully resist U.S. trade threats, leading to what the author believes is a related question: why are pairs of democratic countries prone to trade wars? The author answers these questions by way of deductive reasoning, statistical tests on U.S. Section 301 actions (a part of the Trade Act of 1974 that authorized the executive to retaliate against foreign countries that practiced "unjustified" and "unreasonable" trade practices), and a selection of case studies involving U.S. trade disputes with China, Japan, Canada, and the EU.

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The key variables that answer both questions are the complementarity and the competitiveness of trade flows. Ricardo's famous example of England specializing completely in bread, and Portugal in wine, and trading the two, is an example of the former. The international auto trade, in which many countries import and export cars among one another, is an example of the latter. Complementary trade patterns, such as China exporting textiles to the United States and the United States exporting aircraft to China, are unlikely to yield trade wars because the costs of disrupting trade are high and few domestic lobbies would gain from such a conflict. Competitive trade relations are more likely to produce conflict because there will be both import-competing and exporting firms that may gain from trade restrictions. Hence, the prevalence of trade wars between the United States and the EU, which have similar industrial structures, demand patterns, and oligopolistic industries hoping to dominate the same world markets (for example, Boeing vs. Airbus).

Contrary to the democratic peace literature, democracies do not have fewer trade conflicts. Ka Zeng argues that this is because democracies are primarily developed countries with competitive trade patterns. Any correlation between democracy and trade conflict is thus spurious, because economic development leads to both democracy and trade competitiveness. The ultimate implication of Zeng's argument should be that differences in real per capita income between dyads should be the best predictor of whether they will get into a trade war.

The argument is generally persuasive and well documented. My only quibble is that like most very general arguments, it is perhaps exaggerated and one can easily find counter examples. Zeng argues, for example, that China and the United States do not have trade wars over textiles because the United States has a large textile import lobby (Wal-Mart is the largest U.S. importer from China!) and the U.S. textile industry is "virtually nonexistent" (p. 17). Well, not quite. The U.S. textile industry is still a powerful and successful protectionist lobby. On the other hand, it is highly unlikely that the U.S. government will let China get away with abrogating Pfizer's patent rights on Viagra (announced in July 2004); unlike African countries and AIDS drugs, China can hardly plead a national health crisis in this area. Similarly, an industry such as steel, in which the United States and the EU are competitive, is not lacking in domestic importers willing to lobby hard against trade barriers. The recent decision by the Bush administration (December 2003) to withdraw tariffs of up to 30 percent imposed in 2002 was due in part to furious lobbying by steel-using industries such as the motor vehicle sector.

Qualifications aside, Zeng has focused on a body of practical wisdom that has considerable explanatory power in contemporary trade politics. It also serves to remind us that despite the conventional wisdom that democracies tend to have more and freer trade with each other, this does not exclude the possibility that trade between democratic dyads may be punctuated by trade disputes more severe than those between other types of regime dyads.

JOHN CONYBEARE
University of Iowa

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From Empire to Community: A New Approach to International Relations *by Amitai Etzioni. New York, Palgrave, 2004. 260 pp. $29.95.*

The United States may have been an empire, or at least a semi-empire (p. 95), but it no longer is, and the community has yet to evolve. The message of this book is that the transition from the former to the latter is underway. It may take "generations rather than years" (p. 195) and it "has a long way to go" (p. 204). Amitai Etzioni envisions a continued evolution away from "the Old System" and toward a global architecture that may eventually culminate in a "global community," conceivably a "comprehensive Global Polity" (p. 198) but, more immediately, "a world of perhaps twenty regional communities" (p. 195).

In short, this is an optimistic book, an elevation of Etzioni's communitarian perspective onto the global stage. Much of the analysis focuses on how the "Old System" of nation-states and their international organizations is no longer operative, given the porosity of territorial boundaries and, most importantly, the advent of weapons of mass destruction (WMDs) and global terrorism that have fostered the emergence of a "Global Antiterrorism Authority" that "is on its way to becoming a Global Safety Authority (GSA)" (p. 122). Indeed, not only is the worldwide threat of WMDs posited as continuing to strengthen the GSA, but Etzioni also suggests that other transnational safety issues, such as crime, illegal traffic in people, and the drug trade "are good candidates for further expansion of the missions of the Global Safety Authority" (p. 162). More than that, while he acknowledges that huge problems stand in the way of the GSA ("or some other Global authority") taking on new missions to deal with non–safety-related transnational problems, he allows for the possibility that the challenges of environmental protection, preventing pandemics, fighting illiteracy and poverty, and humanitarian interventions may serve to expand the emergent global architecture.

Etzioni's optimism is qualified in a number of ways, both explicitly (p. 172) and implicitly through the analysis of a number of obstacles that are likely to hinder a transition to a new global architecture. Still, it is his "general thesis that on many fronts the world will proceed along the same path as a developing nation," a path marked by "a naturally occurring process and not . . . an imposed one" (p. 165). Furthermore, it is a path that, despite its pitfalls, tends to minimize tensions: "In a sense my whole book, which could be titled The Dialogue of Civilizations, is a response to Huntington's viewpoint" (p. 41).

Much of the book's analysis is sound, and its thesis is certainly provocative and innovative, leaving the reader with a choice of focusing either on the optimism or on the qualifications of it. The latter are less elaborate than the former, and often are merely acknowledgments that Etzioni is aware of the difficulties inherent in his optimistic assertions. In addition, the author does not address the implications for his scheme of some major global patterns. The problems posed by immigration and the looming challenge of aging populations in the developed world, for example, are not included in his analysis.

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In sum, if one wants to feel good about the world's long-run future, this is the book to read. And in the process of being uplifted, one will encounter more than a few dimensions of the current world scene that are brought into sharp focus. On the other hand, if one seeks a cogent and in-depth analysis, it may be advisable to look elsewhere in the literature on the underlying circumstances at work in the world today.

JAMES N. ROSENAU
The George Washington University

Dangerous Alliances: Proponents of Peace, Weapons of War *by Patricia A. Weitsman. Palo Alto, CA, Stanford University Press, 2004. 245 pp. $49.50.*

Patricia Weitsman has crafted in this book an original and thoughtful analysis of military alliances. She presents a theory of the motives of states in forming military alliances and the level of coordination of policy achieved by countries in such arrangements. She also presents a superb analysis of the Triple Alliance (Germany, Austria-Hungary, and Italy) and the Triple Entente (France, Russia, and Britain) prior to 1914, as well as their wartime performance.

Weitsman suggests that a state may ally with one or more partners in order to balance against threats from other states. However, she argues that a state may have other motives to form alliances: to establish better ties with a particular country (she terms this "hedging"), or to manage conflicts with that country (she calls this "tethering") (pp. 18–19). She also explains that differences in motives for alliances may translate into differences in the degree to which alliance members coordinate their aims and strategies, or as she suggests, the alliance's cohesion. Alliances that are either hedging or tethering arrangements do not need a high degree of cohesion; those that are directed against a specific external threat tend to be associated with greater cohesion among the members.

Weitsman employs original documents from the British, French, and Italian archives, as well as secondary-source literature, to illustrate her analytical arguments through an interpretation of alliance dynamics in Europe prior to and during World War I. For example, Weitsman provides her readers with a marvelous exploration of the use of alliance agreements by Bismarck from the early 1870s up to the end of the 1880s to maintain good diplomatic ties not just with Austria-Hungary but with Russia as well, and thereby to deny the latter to France. She also provides an excellent description of the defection by Italy from the Triple Alliance, the collapse of the alliance between Germany and Austria-Hungary during the savage years between 1914 and 1918, and the remarkable, and indeed growing, cohesion during those years that obtained between France, Britain, and, later, Italy.

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While Weitsman has produced a fine book, there are two points where it invites critical engagement. First, Weitsman suggests that alliances that are formed to deal with external threats or internal conflicts are often seen as threatening to outsiders and may unintentionally add to spirals of mistrust and conflict. Weitsman suggests that an example of this "alliance paradox" is the manner in which the formation of the Triple Entente produced German fears of encirclement (pp. 100–101, 136). The problem is that Weitsman's interesting contention on the impact of the Triple Entente on German strategic calculations is not documented in *Dangerous Alliances*. Second, while Weitsman is correct in suggesting that Britain between 1900 and 1907 wanted an entente with Russia to protect its lines of communication with India, she may be overstating her case when she suggests that Britain was not also concerned about Germany (pp. 124–131). For example, as she points out, as early as 1900, Joseph Chamberlain, then the Colonial Secretary, suggested that it was in Britain's interest that Germany "should turn herself across the path of Russia" (p. 125).

Still, Weitsman succeeds in *Dangerous Alliances* in shedding new light on how states choose military allies, and on how well they cooperate with them both in peacetime and during wars. *Dangerous Alliances* is an important book, and contributes greatly to our understanding of alliances and their impact on war and peace.

JOSEPH M. GRIECO
Duke University

Defending Interests: Public-Private Partnerships in WTO Litigation *by Gregory C. Shaffer. Washington, DC, Brookings Institution Press, 2003. 227 pp. Cloth, $46.95; paper, $19.95.*

The World Trade Organization (WTO) will mark its tenth anniversary in January 2005. Some scholars reflecting on the first ten years of the WTO will assess its record on breaking down barriers to international trade, reducing world poverty, and promoting sustainable development. Others will evaluate the rulings of the WTO dispute settlement system, which dominated the news of WTO operations during its first decade. In his book, *Defending Interests: Public-Private Partnerships in WTO Litigation*, Gregory C. Shaffer has given us a new perspective for examining the WTO: the networks of public–private collaboration that were spawned by the WTO legal system.

He shows how the judicialization of the WTO dispute settlement system has given rise to unprecedented public–private partnerships in promoting trade and enforcing WTO trade rules. In describing this close collaboration between private firms and government officials, he reminds us that "WTO law, while formally a domain of *public* international law, profits and prejudices *private* parties" (p. 3).

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Shaffer interviewed dozens of participants in the trade policy arenas of both the United States and the European Union, including government officials, industry executives, trade association representatives, and trade lawyers practicing in Washington and Brussels. On the basis of those interviews, he paints a vivid picture of what happens behind the scenes in WTO litigation and in the decisions leading up to such litigation.

Implicit in this book is an assumption that the goals of the governmental and private actors in a given trade dispute are usually the same, or at least complementary. Yet, Shaffer recognizes that this is not always the case. He is keenly perceptive in identifying WTO disputes in which the broader interests of government lawyers outweighed those of their private partners in the development of legal arguments for WTO litigation.

The book focuses on the United States and the European Union because they are the most active participants in WTO litigation. Both also have formal domestic procedures for private parties to use when petitioning trade authorities to enforce WTO rules. Shaffer compares these procedures, describing the U.S. approach as bottom-up, with firms and trade associations initiating action. In contrast, he describes the EU approach as top-down, with the European Commission soliciting industry participation.

In reality, it's not that simple; but Shaffer suggests several reasons why the U.S. trade strategy is more aggressive—or more openly aggressive—than the EU strategy. He cites differences in political structures and administrative cultures, described on the basis of some very candid interviews.

Shaffer also examines collaborative relationships between private sector interests in the United States and Europe, including the Transatlantic Business Dialogue, as well as U.S.–EU governmental collaboration in some WTO disputes. Drawing on examples from specific cases, he proposes a theory as to why there isn't more transatlantic cooperation in WTO litigation.

Because the focus of this book is on the United States and the European Union, scholars should examine public–private networks in other WTO member states, particularly developing countries. Shaffer suggests that developing countries are disadvantaged in WTO litigation, but he discusses only briefly the reasons for this apparent assymmetry and his proposals for addressing it. In addition, since the publication of this book, some significant cases have been litigated in the WTO by developing countries as complainants—successfully challenging U.S. and EU trade laws and practices.

Defending Interests gives readers a realistic view of how the WTO legal system works in practice, beyond what they can glean from reading WTO rulings. It also reminds them that the distinction between public and private interests in international economic law is much less clear in a global economy.

A. JANE BRADLEY
Georgetown University

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Global Capital and National Governments *by Layna Mosley. New York, Cambridge University Press, 2003. 381 pp. Cloth, $70.00; paper, $25.00.*

In the heated debates that surround globalization, few subjects are more controversial than the effects of international economic integration on the policy autonomy of governments and the citizens that they represent. Layna Mosley cuts through this rancorous debate by posing a series of empirical questions: what are the policy preferences of foreign investors? how can they influence governments? how can governments expand their autonomy in a world of capital mobility? Her construction of a clear model to frame answers to these questions is a major achievement of her book. A second strength is her eclectic methodological approach, combining interviews, archival sources, and large-n, quantitative analysis.

Mosley's answers to these questions hinge on whether the governments in question are those of industrialized countries or developing countries. For the former, portfolio investors are concerned about a limited range of macroeconomic policy indicators (plus a few of the most aggregate of microeconomic indicators); governments win considerable latitude in their choice of policies for meeting the economic targets desired by investors. Developing countries are less fortunate: the addition of default risk leads investors to scrutinize a longer list of national policy indicators, constraining government policy choice.

Investors are not all-powerful, however, and Mosley demonstrates that governments only accede to the influence of financial markets when the prices imposed by those markets entail political costs through economic performance. Governments may choose to pay the price demanded by skeptical markets and still survive politically. Governments also attempt to shape financial market signals by devising institutions that permit more autonomy (or at least a self-imposed constraint) rather than the volatile and unpredictable constraints of the financial markets.

The author makes clear that her investigation of financial market influence is limited to government debt denominated in domestic currencies. Corporate bond markets, bank lending, and foreign direct investment are all excluded, although many of her arguments might apply in those domains as well. In other words, only one possible source of political constraint introduced by globalization is covered. A second question concerns the distinction between international financial markets and resident investors, who also seek to influence government policies in the direction of low inflation and fiscal rectitude. Mosley sometimes suggests that domestic investors have different, or at least less-volatile, preferences in regard to government policies (pp. 239–245); at other points, the interests of bondholders seem to bridge national boundaries. Even in the case of foreign investors, policy preferences can be volatile, and Mosley argues that investors shift rapidly from one indicator to another (p. 117). If policy indicators are unstable, the underlying preferences of investors may also be less predictable than the author allows. The all-important link between

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financial market pressure and government policy change may also be more ambiguous than indicated by Mosley's original model. Governments happily use financial markets as scapegoats for unpopular policies, and estimating the importance of market pressure in policy change can be difficult, as confirmed by several of Mosley's cases.

These reservations do not undermine the contribution of this work to our understanding of globalization and its effects, and, even more important, our understanding of how to think about globalization and its effects. As the author herself makes clear, the limitations of her analysis only point to additional avenues for research, ably summarized in the final chapter. Perhaps the most important of these are the great divide between developed and emerging markets and the means by which a government can navigate from the less-favored to the more-favored category.

MILES KAHLER
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Deliberative Democracy in America: A Proposal for a Popular Branch of Government *by Ethan J. Leib. University Park, The Penn State University Press, 2004. 156 pp. $27.50.*

This book is a contribution to the burgeoning practical literature on deliberative democracy. Following the initial wave of philosophical discussion, this literature tries to think clearly not just about the lack of deliberation in our current system, but about specific questions: Who deliberates? How precisely do they do it? In what institutional context is this undertaken? While this book is admirably specific on these matters, its quasiutopian character may take some readers by surprise. It talks seriously about adding a fourth branch of government, a popular, but deliberative branch. While Ethan Lieb is clear about the fact that he is not talking about a proposal for adoption any time soon, there is still arguably merit in trying to think clearly about issues of institutional design. Only if we do so are we ever likely to make changes that are more than incremental.

Leib's deliberative democracy, unlike that of John Rawls (or that of James Madison, for that matter) is a democracy of citizen deliberation. His answer to the first question (who?) is that it is ordinary citizens who must deliberate. Deliberation is not a function that can be entrusted primarily to the Supreme Court (the later Rawls) or elected representatives (Madison). In staking his argument on citizen deliberation, Leib is building on the empirical experience of deliberative polls (DPs), citizen juries, and, for that matter, the conventional jury. His answer to the second question (how people will deliberate) is closely modeled on the DP. Here, random, representative groups of several hundred gather for face-to-face deliberation. After an initial questionnaire on first contact, they are recruited for a weekend, where they are randomly assigned to small groups that have trained moderators. On the basis of publicly vetted

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briefing materials, they discuss an issue and, in plenary sessions, formulate key questions for panels of competing experts and decision makers. The small-group and plenary sessions alternate, sometimes for two or three days. At the end of the weekend, the participants are given a confidential questionnaire. In Lieb's design, they would vote by secret ballot on a yes or no proposition. Other questions would also be asked, but they would be anonymous (like votes), so as to provide an informational context for interpreting the result later.

Leib preserves the basic character of the DP, in contrast to other designs (such as citizen juries, consensus conferences, and town meetings). Any conclusions reached at the end of deliberations are contained in secret ballots or confidential questionnaires. There is no pressure for consensus. The small groups with trained moderators try to bring everyone into the discussion and prevent any one individual from dominating the discussion. There are background materials and questions directed to competing experts. And the whole process takes place in a relatively brief time, so that the burdens of being away from family and job are not too great.

Leib's departures from the DP design are motivated by the institutional context in which he proposes to place the process. First, he proposes a supermajority requirement for the citizen assembly to pass any legislation. Second, he situates this process as an alternative to the initiative and referendum. Imagine, for example, that in an instance in which a citizen group might allow for an initiative to place a proposal on the ballot, a randomly selected citizen assembly could instead deliberate the proposal. If it passed this citizen assembly, there would still be opportunities for the legislature or executive (or later the judiciary) to veto or overturn the proposal.

The careful and nuanced thinking that Leib brings to this institutional context of checks and balances is the principal merit of the book. At the moment, there is a chasm in the literature between the DP, positioned as an alternative to conventional polling, and schemes to institutionalize deliberation as a second chamber or as a replacement for the House of Lords, or even for our conventional law-making apparatus. By positioning his "popular branch" as an alternative to referenda, and by situating it in a context in which most of our current institutional structure is preserved, he contributes to quasi-utopian political theorizing. Perhaps, in the very long term, if interest in this sort of institution persists, he will even contribute to changes in how we actually govern.

JAMES FISHKIN
Stanford University

The Political Economy of Armed Conflict: Beyond Greed and Grievance
edited by Karen Ballentine and Jake Sherman. Boulder, CO, Lynne Reiner Publishers, 2003. 320 pp. Cloth, $55.00; paper, $22.50.

The notion that wars might have economic dimensions is not new. Plundering and looting of the battleground has always provided needed resources to

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finance a war. What is new is the scholarly focus on this practice in examining civil wars. For years, the only publication with this focus was David Keen's 1998 Adelphi Paper, *The Economic Functions of Violence*. Keen presented the first systematic, general analysis of how civil war might be conducted for the accumulation of wealth, as opposed to winning. Now that the World Bank has devoted much-needed resources and brainpower to the issue, the question of how economic factors play into the course of civil wars has received far greater attention, including the publication of the edited volume, *Greed and Grievance*.

Whereas this earlier volume stressed economics and theory, *Beyond Greed and Grievance* tempers the economics of violence with a dose of politics, an important contribution in and of itself, inasmuch as the interplay of economics and politics is central to all civil wars. Moreover, although *Greed and Grievance* included only anecdotal evidence from historical cases, *Beyond Greed and Grievance* provides six stand-alone case studies (Colombia, Nepal, Bougainville, Kosovo, Sri Lanka, and Burma), in addition to two theoretical chapters. When we consider economically driven civil wars, these are atypical cases. Moreover, none is African, demonstrating that wars of greed may occur beyond the African continent (although Charles Cater's essay examines the more typical Angola, Democratic Republic of Congo, and Sierra Leone).

There are three refreshing aspects to this book. The first is that it does justice to both the economics and the politics of civil wars. Second, uncommon cases are examined. Additionally, whether the authors were aware of it or not, a common thread emerges from the case studies and Charles Cater's essay: the role of governance—good and bad—and how governance impacts economics, politics, and subsequently, violence. Governance seems to be crucial. Can the government mediate political and economic problems within the state? Is the government seen as the ultimate arbiter, or are there other centers of power vying for control?

Despite the strengths of the volume, there are a couple of weaknesses. Two stand out. First, it is not clear why these cases were chosen. Two are centralist conflicts (Colombia and Nepal), while the rest are regionally based separatist fights. Moreover, Nepal may not even be considered a civil war in the conventional sense (for example, in regard to intensity of killing), and the economics of this conflict are barely visible. Thus, despite the fact that it is an excellent case history, it is not clear how much this case contributes to our understanding of the question at hand. Despite this lack of overall case study coherence, individual case studies were well-focused and provided incisive analysis, with Alexandra Guáqueta's chapter on Colombia standing out.

Second, the theoretical chapters were not as strong as the case histories. Charles Cater's essay provides a multifaceted examination of United Nations intervention in these types of conflicts, all of which involve diamonds as the economic resource of focus. The main point of this chapter is to stress that civil wars have both economic and political origins and that therefore, policies intended to result in prevention or in lasting peace need to be designed to

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deal with both. Although this is a valid point, it is so obvious to most scholars and policy makers that it reads better as a polemic—as an antidote to the excessive degree to which the previous volume identified economic factors with the root causes of civil wars *generally*. But the chapter suffers in that it attempts to cover too much ground: three cases, three factors that influence those cases, and four policy options for the United Nations. It was not clear what was entirely new here. The other theoretical chapter, by Michael Ross, provides a helpful framework (and is an excellent follow-on to Philippe Le Billon's distinctions) for thinking about the role of resources in civil wars. But it claims too much, given the quality of Ross's data. Not only is the data set not comprehensive, obvious cases, such as Chechnya, are missing. Moreover, in some of the tests, there are too few cases to claim "strong" associations, which the author does. The analysis uses simple correlations but makes claims about causality, the strongest of which is that unlootable resources cause separatist conflicts. Finally, it is worth noting that the authors of the case studies found evidence contradictory to the relationships postulated by Ross. The contribution of this chapter, therefore, is not in the analysis (which is too weak to make any definitive claims), but in helping us to think about how to analyze the role of resources in civil wars.

Despite these shortcomings, this volume stands as an important contribution to the literature on the causes of civil war. By providing ample evidence of the interplay between the economic and political functions of violence in a terrific set of case studies, *Beyond Greed and Grievance* lives up to its title, moving us one step further toward a general understanding of the origins and consequences of civil war.

MONICA TOFT
Harvard University

What Kind of Europe? *by Loukas Tsoukalis. New York, Oxford University Press, 2003. 240 pp. $35.00.*

Extremely well written, this book touches lightly and deftly on many of the internal and external pressures building as the EU proceeds along its path to an unknown destination. Thus, it is a book to be recommended to the general reader who does not wish to become enmeshed in the exquisite minutiae of EU history and policy. The book's chapters are neatly divided into three sections: taking stock of what has (and has not) been accomplished to date; the challenges of governance in the fields of economics and foreign and security policy; and a concluding chapter.

The early chapters provide an excellent overview of the main economic policies of the EU—not in great detail, but sketching their origins and major evolutions. They contain a highly readable account of the EU's historical development that will be very informative for general readers. The exposition is complemented by a wealth of statistical data, intelligently presented, which lays out the broad economic trends of the past fifty years.

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Loukas Tsoukalis is blunt about how little has been achieved in some areas. The explanation, for the author, lies in the diversity of national regulatory frameworks in which the nation state, not the EU, remains the relevant reference point. He warns that as national elites have cooperated to develop European policies, European politics has lagged far behind, and that the permissive consensus for integration can no longer be taken for granted. Drawing attention to the widening gap between economic and political integration, he argues for a "strong dose of political oxygen" (p. 6). Pointing to the European emphasis on social solidarity and political systems that deliver a level of income redistribution, he contrasts the existence of such mechanisms in the national polity with their absence at the European level and suggests that the EU "needs to become more political if it is to have a future" (p. 9). Tsoukalis alludes to the signs of rising disaffection on the part of EU citizens, including declining voter participation in European Parliament elections and the occasional referendum rejection in some member states.

The chapters on governance are the heart of the book. In the interaction between the state and markets, European integration has strengthened market forces but created opaque and insufficiently democratic institutions of governance. Tsoukalis warns of the dangers of ignoring the average citizen when constructing institutions and policies. A system based on depoliticization and rule by experts, lacking transparency and democratic accountability, leaves average citizens feeling disconnected. Europeanization, like globalization, creates winners and losers. Among the losers are small farmers; the benefits of the Common Agricultural Policy are largely captured by big farmers. Other losers from integration include those who are less mobile professionally and geographically. The author argues that although elite-driven EU policies have narrowed disparities between member states, implementation of many policies has widened disparities inside member states and that alleviation of these disparities still remains a matter of national, not European, politics.

The recently negotiated Constitutional Treaty is likely to do little to repair the weaknesses identified by Tsoukalis. Moreover, the 2004 European Parliament elections were fought almost entirely on national issues, despite the fig leaf of Europe-wide political platforms. The political groupings within the Parliament remain affinity groups of national political parties. As the author points out, there can be no European political parties until there is a European political market place (p. 41).

SÉAMUS O'CLÉIREACÁIN
SUNY at Purchase
and Columbia University

The French and Italian Communist Parties: Comrades and Culture *by Cyrille Guiat. Portland, OR, Frank Cass Publishers, 2003. 209 pp. $59.50.*

The title of this book is misleading. It does compare the cultural policy of the French and Italian Communist Parties, but it is primarily a case study of Com-

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munist policy in two "red" cities, Ivry-sur-Seine and Reggio Emilia. Moreover, although Cyrille Guiat situates his analysis in the entire postwar period (with forays into the 1930s and 1940s), the time frame for the case studies is limited to the 1960s through the 1980s. Finally, and most importantly, the underlying argument of this book is concerned less with culture than with a broader comparison of the parties: although Guiat quite ably takes readers through certain aspects of Communist cultural policy in the postwar period, his real purpose is to employ cultural policy to illuminate the similarities and differences between French and Italian Communism. Using culture as a window to peer within each party, Guiat finds that the common wisdom about them is, in fact, true: the French Communist Party (PCF) is far more orthodox and loyal to Moscow; the Italian Communist Party (PCI) is more independent and innovative. But, he concludes, even these differences still require us to look to Moscow for the main explanation as to why the PCI was able to evolve into a more-open party.

This book had its origins in the author's doctoral dissertation, and it shows. The first chapter is a lengthy, but partial, review of the literature on the similarities and differences between the parties. The next two chapters are extremely brief; one is a methodological summary, and the other is a short (nine pages) summary of cultural policy making in French and Italian municipalities. Finally, with Chapter 4 (a comparison of the parties' cultural policies), we are into the real substance of the study, and Chapters 5 and 6 discuss Communist policies in the two cities. For reasons that are never made clear, only in the case of Reggio Emilia is original research employed; the material examined for Ivry is entirely secondary.

The concluding chapter pulls together arguments that have occasionally been mentioned in the preceding discussion, but have not been developed. It draws on various explanations of the parties' differences, and provides a nice synthesis of some of the most common arguments that have been employed in the comparative literature. Although Guiat finds several of these explanations (particularly that regarding the intellectual and political quality of the parties' top leadership) to be compelling, he concludes that although the Soviets did not dictate the details of the major differences between the PCF and PCI, they did set the framework that allowed these details to emerge. To simplify only slightly: save for a brief period in the 1930s, France was always more important in Moscow's strategic calculations than was Italy, so the Kremlin cut the PCI more slack in its policies, since what the Italian Communists did simply did not matter as much.

Readers may find this explanation more or less persuasive. (This reviewer finds himself in the more-skeptical camp, above all because the details of domestic politics are never discussed in any depth.) But the main problem is that this is a speculative and, strictly speaking, circular argument. Communist studies were once characterized by "explanations" that simply asserted that the main explanation for what any Communist party was doing at any time was to be found in the halls of the Kremlin. Guiat's argument is not that

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simplistic, for he does at least take seriously many established comparative analyses, and he does acknowledge that the Italians, in particular, evolved along their own independent path. Yet in arguing (without proving) that this independence was basically a matter of Moscow's tolerance, there is more than an echo of the old Kremlinology here. Combined with the lack of much original research in the case studies, this, unfortunately, results in a rather scanty contribution to the relevant literature.

STEPHEN HELLMAN
York University

Churchill's Guests: Britain and the Belgian Exiles During World War II *by Robert W. Allen. Westport, CT, Praeger Publishers, 2003. 212 pp. $67.95.*

Winston Churchill was not a gracious host to the Belgian exiles whose strategically important nation was overrun by Germany in 1940. He scorned Belgium's prewar policy of "independent neutrality." He was furious when King Leopold III surrendered on May 28, removing the last obstacle between the Germans and Allied troops scrambling to evacuate at Dunkirk. When 23,000 Belgians led by Prime Minister Hubert Pierlot and Foreign Minister Paul-Henri Spaak arrived in Britain in time for the Blitz, Churchill had his hands full. Refugee governments straggled to London from Poland, Norway, the Netherlands, Luxembourg, Czechoslovakia, Greece, and Yugoslavia. Like the Belgians, they came heartbroken over those left behind and determined to defeat Germany.

Robert Allen sheds light on one homeless government's effort to take care of its refugees, rebuild a demoralized military, and improve relations with Britain. The Belgian section of the BBC developed the "V for Victory" campaign to send a message of *Victoire* and *Vrijheid* (freedom) to the continent. Belgium's gold reserves and the riches of its African colony, the Congo, proved to be important assets. While the British desperately waited for the United States to come through with Lend-Lease, the Belgians loaned them fifty-nine million pounds. During the war, the British and the Americans bought 70 percent of the Congo's exports, which included such essentials as copper, gold, zinc, tin, uranium, and palm oil. Ironically, as they fought for freedom from oppression, the Belgians relied on the wealth of the Congo, a colony notorious for abuse and exploitation.

As with the Norwegians and the Dutch, Britain's military liaison system helped to integrate Belgian airmen, soldiers, and sailors into Allied forces. Ultimately, the Belgians provided 4,500 men in uniform, or 32 percent of the Belgian males in Britain between the ages of sixteen and sixty-five. Tensions existed between the Belgian leaders, who, for patriotic and political reasons, wanted their military to play a key role, and the British War Office, who feared that the Belgians, who had no reinforcements, would try "to do too much with

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too little" (p. 140). In addition, the Belgians had no say in Allied strategy. Disappointed when their commandos were assigned to General George Patton's decoy operation in the lead-up to the Normandy invasion, Belgians joined the front lines when the British advanced on Brussels in September 1944.

Allen explains how the Belgian government struggled to balance its commitment to the Allied military effort with meeting the survival needs of its civilian population and pursuing its political priorities. One issue was the Resistance. It preserved the port of Antwerp and, during the Battle of the Bulge, identified numbers of German SS troops disguised as Americans before they could do damage behind Allied lines. (Excessive saluting by these "Americans" was one give-away.) The popularity of the Resistance, however, especially the communist-led *Front de l'Indépendance*, worried the conservative Pierlot. The British helped by taking 30,000 resistance men to Northern Ireland for military training. A larger difficulty was coping with pervasive malnutrition, disrupted trade, closed factories, and ruined transportation networks. The Belgians nevertheless provided Allied forces with coal, food, labor, and transport through Lend-Lease. Widespread discontent led to the formation of a new government in February 1945.

This fresh approach is a welcome addition to the tons of World War II scholarship devoted to the great powers. Allen's work contributes to our understanding of how the wartime experiences of a small nation inspired many of its leaders to promote postwar international cooperation.

SUSAN A. BREWER
University of Wisconsin–Stevens Point

Globalization and State Transformation in China *by Yongnian Zheng. New York, Cambridge University Press, 2004. 320 pp. Cloth, $70.00; paper, $25.00.*

This book purports to describe the ways in which "globalization," defined (p. 19) as "a process of selective importation of Western state products, [a concept borrowed from Bertrand Badie] i.e., ideas on state-building," affects and is dealt with by the Chinese state. Yongnian Zheng presents as his goals the assessment of problems resulting from globalization, the examination of the state's ability to cope with globalization, and the identification of future challenges emerging from the encounter with global forces. Thus, the book is an ambitious one—unfortunately, perhaps too ambitious, given its many problems.

The chief weakness of the book is the nearly total disconnect between the author's aims and the body of the study. After two somewhat abstract introductory chapters and a third stimulating chapter connecting globalism with nationalism (portions of which, however, draw upon Zheng's 1999 book on nationalism), Zheng proceeds to cover a range of 1990s political and social developments. Almost nowhere, however, does he explore the linkage between

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China's global involvements and the empirical material he is presenting. If "products" were truly "imported," Zheng must tell the reader which Western practices and institutions were drawn upon and how. But he never undertakes that project. Worse, he never supplies any empirical reference whatever for the concept "state products."

The initial framework lends the impression that the state's adoption of Western "state products" was rationally undertaken by leaders bent on integration with the world community. And yet, in the subsequent chapters, we see practically nothing of this. Instead, the analysis unfolds in accord with who is allied with whom, who is conservative or liberal, and who stands to gain or lose by various institutional alterations (pp. 93, 102, 114), the rational choice to align China's governance with Western models disappearing from sight.

A chapter contrasting the views of conservative and open-minded intellectuals on a range of issues is skillful and insightful. But the same cannot be said for much of the rest of the information offered. Zheng maintains—without documentation—that capitalism had been "publicly advocated" by "many social groups" and chosen by leaders in the early 1980s (pp. 64–65, 156), when the evidence shows that economic reform unfolded piecemeal and without blueprint, certainly without a vision of installing capitalism.

Internal contradictions, repetitions, and errors abound in the chapters on economic policy. Just to list a few: pages 85 and 102 give the date of the creation of the State Economic Commission as 1982, but on page 90, this date is given as 1979. On page 123, the author states that "the Asian financial crisis had a major impact on the regional and world economy, including China's"; on page 125, however, he says "China was one of the few economies in Asia that were largely spared from the adverse impact of the 1997 Asian financial crisis." Zheng gives as one reason for this that "the renminbi was not easily convertible for capital transactions," but it is simply *not* convertible for capital transactions. On page 129, he states, incorrectly, that foreign investors are "denied access to SOEs" (state-owned enterprises), but on page 133, he states, correctly, that some SOEs "sought foreign partnership." On page 130, Zheng states that "no substantive results were achieved" in the reform of SOEs in the 1980s, whereas on page 157, he says, "The economic performance of SOEs improved considerably during the reform years." Pages 131–132 and 156–157 offer different dates for the introduction of the policy of concentrating on large SOEs. And while Zheng attests that "by the end of 1999, China could boast a fairly comprehensive banking and financial structure" (p. 123), there is no reference to the critical problem of nonperforming loans. At times, identical information appears twice, on consecutive pages (pp. 7–8, 127–128) or even just a paragraph apart (on both pp. 127 and 128).

The chapter on protest, although factually unproblematic, labels peasant and worker resistance "social movements." Although Zheng knows the social movement literature, he does not establish that these protests meet the definition of "movements." Indeed, the inability of localized protesters to combine

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and the frequent arrests of their leaders work against such an interpretation. This chapter also tosses the terms "state-building," "state-rebuilding," and "state making" about without explaining their differences, if any, while implying that so long as recentralization has occurred, the state has been "built."

A final problem is the failure to consult authors whose work is pertinent to his subject, including Dali Yang, Margaret Pearson, Joseph Fewsmith, or Kevin O'Brien. It is a pity that neither author, manuscript reviewers, or editors at the Press paid sufficient attention to this publication.

DOROTHY J. SOLINGER
University of California, Irvine

The Canadian Senate in Bicameral Perspective *by David E. Smith. Toronto, University of Toronto Press, 2003. 263 pp. $50.00.*

Protecting Canadian Democracy: The Senate You Never Knew *edited by Serge Joyal. Montreal and Kingston, McGill-Queen's University Press, 2003. 371 pp. Cloth, $85.00; paper, $32.95.*

When Canada was created in 1867, its political institutions formed a set of checks and balances as intricate as those found in the United States. The collective Cabinet was to be a check on both individual ministers and the prime minister. The House of Commons was to be a check on the executive, whereas the appointed Senate was to act as a check on the elected House in order to protect minorities as well as to act as a forum where regional/sectional interests could be effectively represented so as to check the more populous provinces, who would dominate the popularly elected House. In addition, the Queen's representative, the Governor General, was both symbolic head of state and, because Canada was still a colony of the United Kingdom, an officer of the British government, who would protect its interests. One by one, the checks and balances have been eroded, to the extent that the terms "elected dictatorship" and "democratic deficit" have become part of the popular contemporary lexicon.

The first of the institutions to see its role significantly diminished was the Senate. Its legitimacy as a voice of regional interests and as a check on the elected House was almost immediately called into question. The central problem was that it was an appointed body, whose members were selected solely by the prime minister and subject to no checks other than his political considerations and needs. Within a decade, there were calls for reform, through election or provincial nominations, and when these went unanswered, for abolition.

The years have not been kind to the Canadian Senate. As the editor of *Protecting Canadian Democracy*, Serge Joyal, a senator himself, writes: "The Senate is likely the least admired and least well known of our national political institutions. Its work attracts neither the interest of the media, the respect of

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elected politicians, the sympathy of the public, nor even the curiosity of academia" (p. xvii). The only qualification one would make to this is that after decades of calls for its abolition, the Senate has been the focus of a cornucopia of reform proposals as part of our ongoing constitutional debates over the past quarter century. The intent of the reformers was to transform the Canadian Senate into some variant of the Australian, German, or even American Senate.

Does the Canadian Senate deserve the reputation it has? More importantly, would any of the various reform proposals improve the operations and effectiveness of the Canadian political system? These two books cogently and persuasively answer both questions in the negative. David Smith's book, only the fourth in the 137-year history of the Senate, is conceptually the more sophisticated, inasmuch as he insists that any discussion of the Senate must treat it from the perspective of bicameralism and not, as most critics and reformers do, as a hermetically sealed, self-contained entity. Just as importantly, Smith insists that analysis of the Senate is best advanced from a comparative perspective. After providing both a summary review of bicameralism as a concept in the United Kingdom, Germany, Australia, and the United States, Smith provides a very perceptive review of the major studies that have been undertaken on the Canadian Senate. The central concerns of the remainder of the book are conceptual and historical analyses of the roles of the Senate as part of complex systems of representation, federalism, legislative behavior, and responsible government. Needless to say, his work is far more complimentary and persuasive than much of what has passed as commentary on the functions and effectiveness of the Senate. He concludes that the Senate "in its role as a deliberative and representative institution, in its powers . . . is a more substantial and responsible legislative chamber than its critics allow" (p. 172). His review of recent reform proposals should give reformers cause to reflect and reconsider their ambitions and is best read in conjunction with his chapter in the Serge Joyal book, where, for the first time in this reviewer's memory, he enunciates a set of principles that should govern the assessment of reform initiatives.

Notwithstanding the fact that current members of the Senate initiated the publication of *Protecting Canadian Democracy* and contributed two of the nine chapters, this is not a volume that simple-mindedly defends the status quo. Rather, it is an important collection of ideas, arguments, and, most importantly, evidence that very usefully supplements and complements David Smith's volume. In addition to a thoughtful analysis by Janet Ajzenstat of the Senate's conceptual and historical origins to provide context, chapters by two of Canada's foremost students of Parliament, C.E.S Franks and Paul Thomas, offer evidence that calls into question the conventional assessment of the contemporary Senate as ineffective, both as a law-making body and as a check on the executive. Indeed, they make the challenging argument that perhaps the Senate alone is today acting as an effective check on the juggernaut that is the Canadian federal executive and provide persuasive evidence to substantiate their claim. For those interested in reform proposals, the chapter by Jack Stillborn provides

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a comprehensive review of the substance of the recent major proposals "both of what they contain and . . . of the questions they leave unanswered" (p. 63). In his chapter, Ronald Watts, perhaps Canada's best comparative student of federalism and the operations of federal institutions, offers an analysis of second chambers in federal parliamentary systems that, among other things, cautions against simplistic adoption of proposals without a deep understanding of their domestic contexts.

For those interested in an empirical analysis of how the Canadian Senate operates that is grounded in sound conceptual understanding, as opposed to the all-too-common rhetoric that routinely glosses over the facts and the principles in order to launch into arguments for preferred reforms, these two books are essential reading. Alone, they may not be sufficient to repair the conventional view that the Senate is wholly lacking in legitimacy, but they do provide empirical and conceptual benchmarks that should inform future discussions of the roles of the Senate and its contributions to the Canadian political system.

RICHARD SCHULTZ
McGill University

Sex and the State: Abortion, Divorce, and the Family Under Latin American Dictatorships and Democracies *by Mala Htun. New York, Cambridge University Press, 2003. 219 pp. Cloth, $60.00; paper, $22.00.*

Although the main title leads one to expect a book about prostitution, child abuse, and pornography, the subtitle clarifies that this is a book about key women's rights issues. Mala Htun explores policy changes in divorce laws, abortion rights, and women's rights in Argentina, Brazil, and Chile in the last third of the twentieth century. She documents these changes, sketches the politics behind them, and offers insightful explanations using comparisons among these countries, between the periods of military rule and democracy, and occasionally with U.S. and European experience. She presents eighteen stories (concerning three policy areas from each of the three countries over two historic periods) based on archives, interviews, and intelligently used secondary sources. A first chapter, dissertation-like, displays causal and normative theories; then separate chapters analyze each of the policy areas. The cases on gender equality in marriage are divided into two chapters, which present the issue as it exists in countries under military rule and in those under democratic rule, respectively. Single chapters on divorce and abortion cover both historic periods. In each chapter, general trends are presented, followed by analysis of change in each country.

Htun's main argument is that the three policy areas need to be disaggregated, her way of saying that there is no single "women's rights" dynamic at work. Abortion—which changed least—became a moral issue. Gender rights in the family became a developmental issue relating to women in the work force

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and property distribution. The author might have gone further and disaggregated country-specific mechanisms. The policies of comparatively progressive generals (in regard to these issues, at least) in Brazil are contrasted with Augusto Pinochet's rigidity and Carlos Menem's antiabortion stance. The author herself disaggregates military and democratic regimes. That she offers no single argument explaining variation or describing trends is not surprising. There is no obvious reason that policy decisions on this mix of issues would be expected to respond to a single dynamic.

What emerges instead is a fascinating array of insights. The function of comparison here is not to identify a common process, but to force us to see different mechanisms for clusters of cases. For example, however conservative military governments were on other issues, they could call on politically insulated groups of experts to promote family rights for women because of their control of the process and the acceptance of the need for letting women work. Policy change under democratic governments varied, she says, according to the strength of the party systems, with Brazil's weak system a case in point.

Not surprisingly, policies on divorce varied according to church–government links, but this meant that when the church became part of the opposition to military rule (as, for example, in Brazil), divorce legislation proceeded because it could split the opposition. Comparison with divorce policy in Argentina supported this point, although Htun doesn't explain why Pinochet did not use that strategy in Chile.

Another theory with limited application emerged from the comparison of progress (or lack thereof) on abortion policies and progress on other fronts. This comparison allowed Htun to contrast the weak demand for abortion reflecting, on one hand, adherence to a moral principle, and on the other, the easy access for middle-class women to illegal abortions.

In the end, the theories introduced in the beginning were limited in their application. Citation of Theodore Lowi's old distinction between types of issues was intriguing, but this distinction was neither used nor elaborated upon. Issue networks and midrange state structures were mentioned, but apparently only as heuristic guides. The author emphasizes the importance of deliberative democracy, but did not follow through with either heuristics or normative conclusions.

In summary, *Sex and the State* presents an interesting look at some important policy changes using a useful—heuristically, at least—comparative strategy.

DOUGLAS A. CHALMERS
Columbia University

The Politics of Property Rights: Political Instability, Credible Commitments, and Economic Growth in Mexico, 1876–1929 *by Stephen Haber, Armando Razo, and Noel Maurer. New York, Cambridge University Press, 2003. 382 pp. $75.00.*

Why does sustained political instability *not* invariably produce periods of economic stagnation? Stephen Haber, Armando Razo, and Noel Maurer tackle

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this question by assessing Mexico's pre- and postrevolutionary political economy. The resulting "analytic narrative" not only speaks to economists, historians, and political scientists, but also challenges the conventional logic of the relationship between political instability and economic growth.

Mexico offers a unique opportunity to examine this relationship. The dictatorship of Porfirio Díaz (1876–1911) prioritized economic modernization, and the revolution that toppled it unleashed a period of political instability *par excellence*: four presidents felled by assassins' bullets between 1911 and 1929, widespread violence, massive internal migrations, plus external incursions and occupation. Such conditions seem hardly conducive to economic growth, yet this book's evaluation of Mexico's agricultural, financial, industrial, mining, and petroleum sectors turns conventional wisdom on its head. Yes, each sector suffered during the most intense years of conflict (1914–1917), which destroyed Mexico's railway system; but once rail transport was restored, economic growth resumed, too, despite the coups, assassinations, and military revolts that followed.

The major theoretical contribution of this book—and its explanation for growth despite political instability—is the notion of a vertical political integration (VPI) property rights regime that can enforce property rights even in the context of weak central political authority, high uncertainty, and intense instability. VPI regimes emerge when governments treat property rights as a private (not public) good; offer selective property rights protection to some, but not all, asset holders; receive resources (tax revenues) from those they protect; and are constrained from predation against these asset holders by foreign or domestic third parties that derive rents from them and that work to enforce contracts between these asset holders and the state. Such an arrangement, the authors argue, governed property rights and fueled growth during the Porfirian dictatorship and, with modifications, was reestablished after the revolution.

After developing their theory of a VPI regime and demonstrating its historical operations in Mexico, Haber, Razo, and Mauerer apply their model to Mexico's key economic sectors. Toward this end, they construct useful data sets (both firm- and industry-level) that span the years of Porfirian peace and revolutionary instability and, where appropriate, subject those data sets to quantitative analysis.

In the end, they find that although the agricultural sector suffered during the early revolutionary period, in the medium term, instability did not stifle investment or output. Instead, as VPI coalitions reemerged, staple crop harvests regained pre-1911 levels and export crop harvests diversified and surged (p. 286). Similarly, although Mexico's financial system nose-dived initially, once postrevolutionary governments recreated VPI arrangements, the banking system grew rapidly during the 1920s (p. 80). In the industrial sector, the reemergence of VPI ensured that political instability exerted only short-term effects on investment, output, and economic performance (p. 124). As for the mining sector, political instability hindered neither production nor investment. Because "the commitment mechanisms" that supported mining under Díaz had "remained intact" through the 1920s, Mexican mining firms "not only in-

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creased output; they gained world market share" (p. 284). Finally, in the petroleum sector, political instability produced only negligible effects on growth (p. 190).

By examining the interaction of political and economic institutions, this book offers new insights as to how and why political instability affected Mexico's economic performance, and it provides an "analytic narrative" of the type some social scientists increasingly advocate. True, given its decidedly historical anchor, one wonders how applicable its VPI framework is to situations in today's more globalized economy. But this issue aside, this book remains a thoughtful, theoretically driven work that should appeal to those interested in Mexico's development history, political economy writ large, and the mechanics of rigorous, comparative social science research.

MARK ERIC WILLIAMS
Middlebury College

The Government Machine: A Revolutionary History of the Computer
by Jon Agar. Cambridge, MA, MIT Press, 2004. 576 pp. $50.00.

"Machine" is both a metaphor for and a tool of the state. As the state grew and the tool became more pervasive, "machine" became less metaphorical and a greater physical presence within the bureaucracy. In explaining the development of this metaphor and its transformation into a tool, Jon Agar argues that "the computer [is] . . . the apotheosis of the civil servant" (p. 3).

Much of the business of the state is information processing. Over time, as the state and its capabilities grew, information processing became more routinized and mechanical. Thus, the machine is an excellent metaphor for the state.

Today, the computer is an essential tool for processing information. These machines have been adopted by bureaucracies throughout the world as an efficient means of receiving, storing, retrieving, and analyzing data. In many ways, the physical machine has replaced the metaphorical machine in bureaucracies.

Jon Agar illustrates this progression through a study of the history of the British bureaucracy housed at Whitehall. Events beyond Britain's borders have often affected behaviors at Whitehall, and Agar's discussion regularly includes developments occurring in other locations, such as Prussia or the United States.

Central to the rise of the machine were "expert movements." These movements were generally dominated by middle-management "technocrats," who saw a more-efficient "mechanical" way of handling the rising tide of information. These innovations often met with opposition from lower-level functionaries, who were resistant to change, and from higher-level policy makers, who felt politically threatened by the experts. Often, these experts worked in the treasury department, where large amounts of data were processed.

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The Government Machine is a comprehensive work. It begins with a discussion of language and the use of metaphor. It progresses to the historical development of bureaucracy. Then, the role of "expert movements" is described. The necessities of war gave rise to innovation, and these linkages are explored. As information technologies such as the stored-program computer developed, machines were able to take over many of the functions of bureaucracies. These functions are discussed in relation to the size and efficiency of government. Routinization of the state encourages the development of machines that can perform routine functions. Machines simultaneously create efficiencies and demand greater routinization. Greater efficiency allows the acceptance of additional responsibility. Thus, the state becomes more like a machine, more dependent on machines, and it grows.

In some ways, the book is too comprehensive. It contains 432 very meaty pages of text. Any three or four pages would be a strong foundation for an hour-long class lecture. The topics range from the philosophy of language to a modern-day debate on information overload. The author admits that after Chapter 7, he needs to "move back to the mainstream of this book's argument" (p. 12). This is not to suggest that the book rambles; rather it is to argue that the book treats in great detail every topic impinging on the central theme. It concludes with 100 pages of endnotes.

This book could be useful in an organizational theory course. It would have the most application as a book review assignment or as a point of discussion in a graduate seminar. Also, the book would be a valuable addition to the personal libraries of those who are particularly interested in the routinization and mechanization of both governmental and nongovernmental bureaucracies.

RICK FARMER
University of Akron

The Green Agenda in American Politics: New Strategies for the Twenty-First Century *by Robert J. Duffy. Lawrence, University Press of Kansas, 2003. 260 pp. Cloth, $35.00; paper, $17.95.*

Notwithstanding its title, this book does not explore the "green agenda in American politics." Rather, its focus is considerably more modest: it describes the evolution of the political strategies of environmental organizations.

This volume represents an important contribution to our understanding of American environmentalism, inasmuch as these changes have been both substantial and significant. Although some of these changes are well known, *The Green Agenda in American Politics* provides the first comprehensive description of how and why the American environmental movement has entered into the mainstream of interest group politics.

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Environmental organizations, for example, now have active electoral strategies. Between 1990 and 2002, various "green" political action committees contributed an average of $600,000 during each federal election cycle, primarily to challengers and candidates for open seats. Since 1994, they have placed greater emphasis on funding media campaigns that focus on issue advocacy and voter education. The latter represents an effort to assist their grassroots supporters in (re)defining a green political agenda. Many environmental organizations now regularly use paid issue advertising campaigns in newspapers and magazines.

Faced with a more-hostile national political environment since the Republican Congressional victories in the 1994 midterm elections, environmental organizations have placed greater emphasis on "outsider" strategies. They have placed a priority on enhancing the capacity of local organizations to engage in more-effective political advocacy. Green organizations have also made greater use of polling data to fashion more-sophisticated communication strategies and have learned to use the Internet to mobilize their supporters. Every environmental organization now has a web site.

Thanks to substantial financial support from foundations as well as from contributions from their large memberships, the environment movement has, since the early 1990s, become better funded, better organized, and more politically sophisticated. However, over the same period of time, it has also become less influential. Robert Duffy of course recognizes this; indeed, the Republican political ascendancy, first in Congress and more recently in the executive branch, provides the setting for much of the book.

For more than a decade, the environmental movement has mostly been on the defensive, primarily attempting to stem Congressional and, since 2001, administration efforts to weaken environmental standards and their enforcement. The results have been mixed. Interspersed throughout this book are brief descriptions of these various battles and their outcomes. But what is missing is any systematic effort to specify the conditions under which environmental groups have been more or less successful in achieving their political objectives.

The book would have benefited from a chapter organized around a few detailed case studies, such as, for example, the movement's notable success in thwarting the efforts of Congressional Republicans to roll back environmental regulations and its prolonged failure to persuade the American public, and thus politicians, of the need to regulate carbon dioxide emissions.

Duffy describes political cooperation among environmental organizations, but pays too little attention to an equally important subject, namely, the relationship between environmental organizations and other liberal organizations, such as trade unions and civil rights groups. The latter played a critical role in one of the movement's few recent successes, namely, placing the issue of environmental justice on the political agenda; yet, this topic is not discussed. And unions and environmental groups cooperated on trade policy, an issue mentioned only briefly.

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The book's most serious shortcoming, however, lies in its failure to address what is surely the most important issue to students of American environmental policy and politics, namely, the erosion in the political influence of environmental organizations since the early 1990s. Why, in other words, has the American environmental movement become more resourceful but less effective? This book does an excellent job focusing on the former development but disappoints the reader by not attempting to address the latter.

DAVID VOGEL
University of California–Berkeley

Worlds Apart: Civil Society and the Battle for Ethical Globalization *by John D. Clark. Bloomfield, CT, Kumarian Press, 2003. 268 pp. $24.95.*

John Clark makes common cause with those critics of globalization who seek not to block it but to end the inequities lurking behind the bottom lines of business profits and political interests. He brings to the task eighteen years of experience with the nongovernmental organization (NGO) Oxfam, and eight as manager of the World Bank's "NGO and Civil Society Unit," followed by a visiting fellowship at the London School of Economics.

Clark sees in civil society the key to social and environmental justice. He calls for a wider engagement of civil society organizations: private associations, social movements, religious organizations, and NGOs such as Oxfam and Amnesty International. They should, he says, focus particularly on governments and business, the strongest influences on International Governmental Organizations (INGOs) such as the World Bank, the International Monetary Fund, and the World Trade Organization.

From globalization, Clark turns, in the second section of *Worlds Apart*, to organizational, international, and technological hurdles confronting civil society organizations (CSOs). CSOs should more scrupulously monitor and evaluate their own work. They should put their missions ahead of self-interest (for example, convenience, or pleasing donor governments and foundations). Internationally, CSOs should guard against excessive top-down management of programs, giving full play to input and full credit for operations down the chain of interaction from international to national and local levels.

North–South splits may be unavoidable. Jubilee 2000, the NGO seeking poor-country debt reduction, saw its Southern affiliates separate into Jubilee South in order to campaign for wider-reaching debt forgiveness than their Northern partners supported. Out of concern for foreign investment, Southern governments may not look positively on efforts by Northern trade unions and other CSOs to advocate fair labor standards and corporate responsibility in their societies, and may see bans on child labor as doing more harm than good.

Clark devotes a whole chapter to "The Protest Movement and Dot-Causes." Internet communications technology makes organizing and networking much

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cheaper and easier (that is, one should add, where it reaches). But networking and demonstrations should not substitute for the face-to-face work of lobbying, dialoguing, and negotiating with governments, corporations, and INGOs.

Clark gives useful but tantalizingly few examples of this work from his own considerable experience. Among those examples are the World Bank's turn to consulting with NGOs about the human and environmental consequences of projected programs, and Oxfam's confrontation with Nestle over its baby food formula. Also, Clark pays little heed to the human rights entailed in expressions such as "ethical" and "globalization." As for economic and social rights, they are not merely "aspirations" (p. 209); they are obligations for conscientious targeting as well. Article 2 of The International Covenant on Economic, Social, and Cultural Rights spells out the obligations of a state party to achieve those rights progressively, "to the maximum of its available resources" and "through international assistance and cooperation." The UN Development Program and its *Human Development Reports* have paid considerable attention to people's empowerment through knowledge of their human rights. Empowerment through grass roots organizing also might have received more attention in this book.

Part III sums up the "path to ethical globalization" with a vision of transnational cooperation for inclusive globalization and social justice reminiscent of the cosmopolitan, transnational community envisaged by David Held, Danielle Archibuga, and Martin Kohler, whose work, indeed, Clark cites. The book balances this idealism with realities learned on the job, in what is a worthwhile text for students as well as for researchers and activists, and a help in reviewing one's own ideas on responding to globalization.

PETER H. JUVILER
Barnard College, Columbia University

Building Democracy in Contemporary Russia: Western Support for Grassroots Organizations *by Sarah L. Henderson. Ithaca, NY, Cornell University Press, 2003. 229 pp. $29.95.*

Sarah Henderson has written a fascinating account of Western intervention in Russia to facilitate creation of a functioning civil society. Her research contributes to a larger dialogue on both civic development in modernizing societies and the export of foreign assistance to foster it. Her critical analysis focuses on the positive, but also highly negative, outcomes of such external funding support.

Henderson served as a consultant to several foundations (she does not comment on the extent to which such participation/observation may lead to conflict of interest). In addition to collecting survey data, she interviewed the staffs of 100 funder and recipient groups, providing an extensive database for her analysis.

The central hypothesis of *Building Democracy in Contemporary Russia* is that external financial support, however well intentioned, largely fosters the agenda of the funding agency. Even more problematic, it tends to provide aid

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to organizations that most conform to Western norms, reinforcing elitism and hierarchy within the nongovernmental organization (NGO) community. Henderson emphasizes the limited concept of civil society that underlies Western funding efforts: support has been directed at NGOs, as opposed to other facets of grassroots democracy, including voluntary mobilization, creation of social capital, and cooperation. In Henderson's view, the relationship that develops is one primarily between donor groups and recipients; the larger domestic populace, the presumed beneficiary, is left out. Henderson also stresses the vast chasm—in areas such as technical capacity, ability to survive, and opportunities for effective networking—between those groups who receive foreign support and those who do not. The primary conclusion is a fairly damning one: that exogenous funding may undermine long-term benefits to civil society and civic development.

Henderson highlights the funding of women's groups in Russia and examines, in particular, the role of the Ford Foundation in providing support to them. A particularly troublesome finding is that in Russia, most women's groups depend on foreign funding for their existence, although in Henderson's own survey, just 50 percent received aid from Western sources. Ford and other funders are criticized for primarily supporting Moscow-based groups, to the exclusion of smaller and more regionally based ones, setting organizational agendas, and operating in a discretionary manner, with the end result of creating unequal vertical relationships, which she designates "principled clientelism." Other issues raised that are applicable to foundation support for groups everywhere are consequences when funders pull out, preoccupation with fund-raising as opposed to goal attainment, and the impact of funding "fads" that require a new focus. The author suggests that funders prefer to aid advocacy groups, as opposed to groups that engage in service or in more day-to-day activities. Yet, elsewhere in the book, she indicates that funds are not used by recipient groups for explicitly political purposes. Perhaps a working definition of what is meant by "advocacy" would be helpful in explaining this apparent contradiction.

Henderson's analysis, although occasionally repetitious, is provocative and insightful, as well as critical of the prevailing practice of funding for the purpose of promoting democratization. It would be useful to gain a clearer view of what alternatives she proposes for building a more meaningful civil society. The data she provides suggest that in the decade prior to 2001, the number of civic groups zoomed from 40 to about 450,000. How would most of these groups be able to survive and to have an impact in the absence of foreign support? Perhaps more use of case studies of successful and unsuccessful efforts would help to clarify what foreign aid to NGOs can and cannot achieve, in the long and short term.

JOYCE GELB
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Eyes Off the Prize: The United Nations and the African American Struggle for Human Rights, 1944–1955 *by Carol Anderson. New York, Cambridge University Press, 2003. 290 pp. Cloth, $65.00; paper, $22.00.*

In several respects, this is an impressive and valuable book. It illuminates the subtle, but critical, linkages between domestic and foreign policy and among civil rights, human rights, and international institutions. For historians, it offers fresh perspectives on the domestic political forces that shaped the development of the core human rights instruments and the early days of the UN Commission on Human Rights. Seen through the lens of race relations in the United States, these historic advances look tentative, hesitant, and dangerously incomplete. U.S. policy, in particular, appears far more ambivalent than farsighted. The author usefully places the African American struggle for civil rights in the larger framework of the global movement for human rights, encompassing economic and social, as well as civil and political, rights.

This is, in short, a fine piece of scholarship. The text is carefully and fully documented, with the extensive and adept use of primary sources. The prose is vivid and lively, if a bit overwrought when describing racist violence and too sweeping when caricaturing personalities and policies.

Indeed, the heavy focus on the personalities of and interpersonal rivalries among key African American leaders is both a strength and a weakness. As a contribution to scholarship, it is certainly helpful to understand how personal foibles and ambitions repeatedly undermined the advancement of policy goals of importance to the African American community. Yet, it is less clear from the volume whether it was the interpersonal or the policy differences that mattered more in slowing the pace of change. No heroes emerge from this harsh narrative, either among the black leadership or from their erstwhile allies within the white political establishment. According to this account, none of the players were effective advocates for the economic and social rights of African Americans.

For all of its attributes, the book fails to deliver on its core claim: that the welfare of African Americans to this day would have been significantly enhanced if the NAACP and other civil rights organizations had in the late 1940s and early 1950s embraced the UN Covenant on Economic and Social Rights as fervently as they did the cause of political and civil rights. Though asserted at various points in the book, this proposition is never subjected to serious analysis or questioning. Perhaps the platforms of these groups paid too little attention to economic conditions and employment opportunities, as the author contends. But why would the Covenant itself represent the "prize" of the book's title? The historic record suggests, unfortunately, that a country's ratification of any given human rights convention does not ensure anything close to full compliance with all of its provisions.

As the author amply demonstrates, even if the U.S. had ratified the Covenant on Economic and Social Rights—it was not even submitted to the Senate

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until the Carter Administration (1978)—there would have been plenty of spoilers to slow its implementation. Why would the NAACP's endorsement a half-century ago of a Covenant that has never had much political support in this country have made much difference either in gaining its ratification or in the daily lives of African Americans? The notion of transnational economic and social rights simply has not fit easily with traditional conceptions of American capitalism, federalism, and political culture. Had the NAACP and the Truman administration been populated by farsighted saints, this still would have been a heavy load to move. But the author does a considerable service by reminding us both that leaders do matter and that human rights begins at home.

EDWARD C. LUCK
Columbia University

The Presidential Nominating Process: A Place for Us? *by Rhodes Cook. Lanham, MD, Rowman & Littlefield Publishers, Inc., 2004. 176 pp. Cloth, $60.00; paper, $22.95.*

In this book, Rhodes Cook, a veteran journalist, provides a concise yet illuminating examination of the convoluted way in which American parties choose presidential candidates. Cook develops no grand theories, and much of his account of the two centuries' journey from congressional caucus to Iowa caucus will be familiar to scholars and campaign junkies. Yet, if my experience is typical, some surprises await even C-SPAN viewers.

For example, Cook makes the standard point that although party leaders retained ultimate power before 1972, they could be influenced by the results of primaries. The classic illustration is the 1960 West Virginia primary, in which John F. Kennedy reportedly needed to defeat Hubert Humphrey if he was to convince party bosses that his Catholicism would not prove fatal in Protestant states. Yet, unlike many authors, Cook adds that in 1928, Catholic Al Smith also won that state's primary in a race against another Protestant midwestern senator, Missouri's James Reed, which makes JFK's victory in a more tolerant era seem less impressive. Who knew?

In one chapter, Cook usefully surveys party leadership selection in other democracies. Commendably, he supplements the predictable comparisons to the United Kingdom and other European states with examination of Canada, Mexico, and Israel. The United States remains unique in the degree to which its intraparty elections are managed by government. Cook shows that the primary, an American invention, is gaining ground abroad. Yet other nations favor national primaries and thus avoid giving a disproportionate role to the residents of particular regions.

This raises the normative point that Cook emphasizes: the current system gives excessive weight to a handful of early voting states he terms "Kingmak-

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ers." Meanwhile, most voters live in states that play the lesser role of "Confirmers" (choosing from a greatly reduced field of candidates) or "Rubber-Stamps" (who don't get to vote until the race is over). This condition is not new, but, as Cook shows, it has grown increasingly severe.

This system is indeed arbitrary. Yet its policy consequences, as contrasted to those of alternatives Cook discusses, such as rotating regional primaries and a national primary, are less clear. Would presidents govern differently under a modified system? Cook does not say. In any case, he doubts that major reforms are imminent. This seems sensible. Despite its seeming unfairness, the current system does not observably bias outcomes in a way that generates intense opposition.

Although this book was completed before the recent campaign unfolded, it is hardly obsolete. Once again, the race ended before most voters had a chance to weigh in. The top finishers in "Kingmaker" Iowa now comprise the Democratic ticket. However, the pattern Cook notes, in which the early poll and fundraising leaders (usually the same candidate, in years past) prevail, was disrupted. Had those trends continued, either Howard Dean, the fundraising champion, or Joseph Lieberman, who topped the earliest polls, would have triumphed.

A few of Cook's judgments and facts are questionable. The Democrats' longstanding requirement of a two-thirds vote to choose a nominee was arguably less a cause of the party's weakness than a symptom of their real problem, a very fractious coalition. Women did vote in presidential primaries in 1912; they were already enfranchised in California, one of the first states to adopt a primary. Although indeed a member of the House of Lords when named Prime Minister in 1963, Alec Douglas-Home had been in the Commons and the Cabinet and should not be listed, along with Dwight Eisenhower, among the "non-politicians" made party leaders. Yet these are minor flaws.

This enjoyable, informative book merits consideration by undergraduate instructors and civic-minded readers alike.

DAVID KAROL
University of California–Berkeley

Reframing Public Policy: Discursive Politics and Deliberative Practices
by Frank Fischer. New York, Oxford University Press, 2003. 280 pp. Cloth, $65.00; paper, $24.95.

Like most academic fields, policy analysis has its share of intellectual disputes. Frank Fischer is a regular participant in one of those disputes—the ongoing debate between the positivists and the "post-positivists." The former school, almost certainly the dominant school among practicing policy analysts and probably also among scholars in the field, assumes that there are real "facts" that can be used to assess policies and to understand the dynamics of the policy process. In this view, policy analysis can be scientific and can provide

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objective advice to policy makers about how best to govern. Advocates of the alternative approach, such as Fischer, argue that facts are constructed by society and theory, and hence, are shaped by the values of analysts. In that view, policy analysis is based on ideas and ideologies, and uses those ideas to shape policy prescriptions through discourses, scripts, scenarios, and analogous methods. Hence, from this perspective, policy analysis is far from objective, but represents a particular conception of reality based on ideas as well as interests.

As with most such academic debates, the battle lines are drawn more clearly than are the real differences in the scholarship, and the protagonists engage in a great deal of stereotyping of the approaches to which they do not subscribe. This book is an excellent presentation and defense of the constructivist perspective on policy analysis, and makes a strong, positive case for the utility of postempiricist reasoning for understanding policy choices, but also at times does oversimplify the claims of the positivists. Although there are many interesting points made in the book, the discussion of the contrasts between the constructivist perspective on policy learning and that offered by the more-familiar advocacy-coalition framework is an excellent presentation of the value of a less-positivist perspective on public policy.

What distinguishes Frank Fischer's work from many other books in this genre is that it moves beyond presenting alternative explanations and descriptions of policy regimes to considering how this mode of thinking about policy can be used to advise policy makers. It must be said that this section of the book is less convincing than the more-descriptive elements of the discussion. The section on advice does remind the reader, however, that policy analysis may be more than an academic exercise and that there may be real consequences for society as a result of the advice provided to policy makers. At a minimum, however, the more-interpretative approach to policy can enable policy makers to understand their own premises and the socioeconomic interests that those ideas will serve. Further, as mechanisms for citizen participation in policy become more viable, at least in some contexts, the development of alternative sources of expertise and alternative perspectives on the content of policy becomes more central to governing.

In summary, this is an excellent, well-argued presentation of one view of public policy analysis. It is only one view, and one can certainly argue with some of the assertions made, but if a reader wants to understand the discursive perspective on policy, this volume would be a very appropriate place to begin.

B. GUY PETERS
University of Pittsburgh

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STATEMENT OF OWNERSHIP, MANAGEMENT, AND CIRCULATION

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b. Paid and/or Requested Circulation		
(1) Paid or Requested Main Subscriptions	5,579	5,309
(2) Paid In-County Subscriptions	0	0
(3) Sales through Dealers and Carriers, Street Vendors, and Counter Sales	1,264	2,050
(4) Other Classes Mailed Through USPS	113	111
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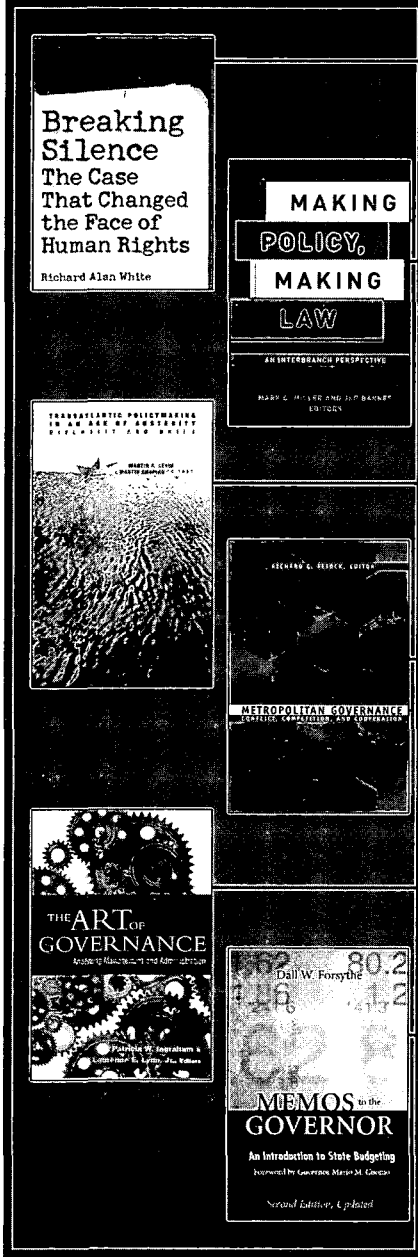

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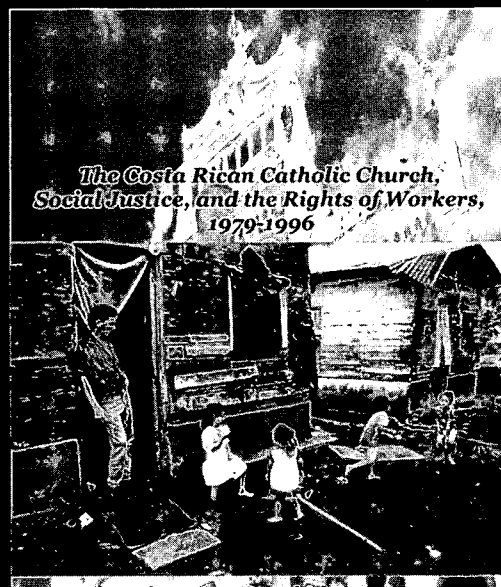

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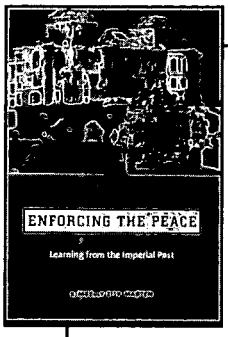

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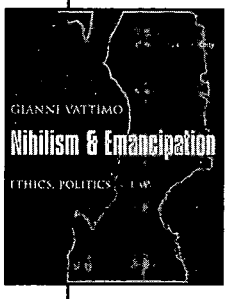

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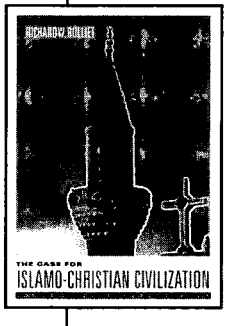

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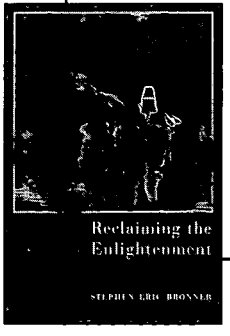

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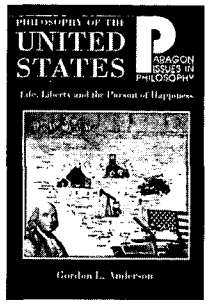

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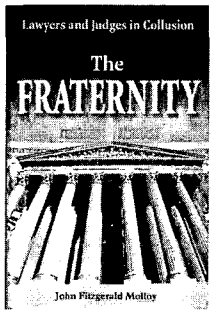

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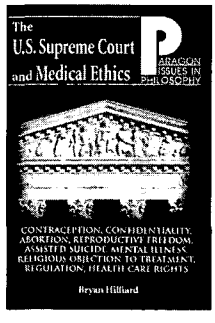
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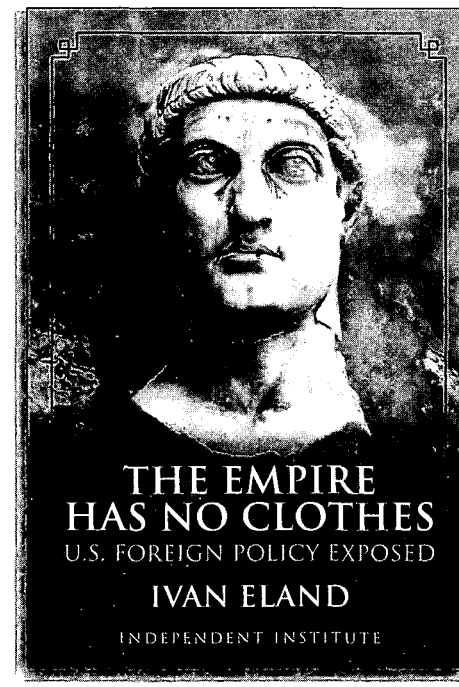

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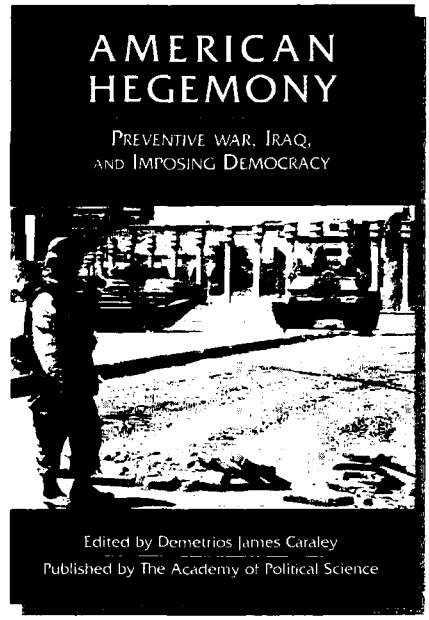

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